

REQUEST FOR PROPOSALS

Initial Maintenance and Energy Efficiency Conversion
and
Follow-up Warranty and Maintenance Services
for Municipal Street Lighting System (Mid-Hudson Street Light Consortium
Project)

**Town of Red Hook, Dutchess County, New York as Administrative
Participant for Consortium Joint Procurement**
December 4, 2017

NOTICE OF ISSUANCE OF REQUEST FOR PROPOSALS

Initial Maintenance and Energy Efficiency Conversion and Follow-up Warranty and Maintenance Services for Municipal Street Lighting System (Mid-Hudson Street Light Consortium Project)

The Town of Red Hook together with other municipalities listed at Appendix C to the RFP (“the Participants”) are members of the Mid-Hudson Street Light Consortium (the “Consortium”). The Consortium is an initiative supported by the New York State Energy Research and Development Authority whose goal is to assist municipalities in converting to LED street lights to capture the environmental, financial and operational benefits that LED technology offers. The Consortium has prepared a Request for Proposals (RFP) so that the Participants may jointly solicit proposals from qualified contractors (hereinafter referred to as “Offerors”) for the Initial Maintenance, Energy Efficiency Conversion, and Follow-on Warranty and Maintenance Services of the Municipal Street Light System (Mid-Hudson Consortium Project) in accordance with the provisions of the Contract Documents, requirements and specifications comprising the RFP package. References herein to term “Municipality” refer to each participating community or “Participant.” References herein to the term “Town” refer to the Town of Red Hook as lead administrator for the joint RFP and as a Participant with respect to its own contract, if awarded and executed. Under this solicitation, it is expected that only one Offeror will be selected to complete the work on behalf of all of the Participants (the “Selected Offeror”) and the Selected Offeror shall enter into separate contracts (each a “Contract”) with each Participant at the will of the Participant, although the Participants reserve the right to select multiple Offerors. The RFP will describe each of the necessary services which shall be priced separately and the Town and any Participant may select one or all of the services as they may require. Each Participant, as well as any subsequent municipality that wishes to “*piggy back*” on a Contract awarded by a Participant, will enter into a separate Contract with the Selected Offeror. While the Contract will generally conform to the sample included with this RFP, each community may choose to modify the Contract based on its specific needs or conditions and is under no obligation to enter into a Contract with the Selected Offeror.

Copies of the RFP package is on file with the Office of the Town Clerk of the Town of Red Hook and may be obtained via email by contacting Town Clerk Sue McCann at smccann@redhook.org referencing this RFP. Hard copies are available from the Town Clerk for a deposit of \$100.

There will be a mandatory pre-offer conference at the Town of Red Hook Town Hall, 7340 South Broadway, Red Hook, NY 12571, at a date and time to be determined by the Town.

SEALED PROPOSALS WILL BE RECEIVED by the Town of Red Hook at the office of the Town Clerk, located at 7340 South Broadway, Red Hook, NY 12571 until a date and time to be determined by the Town, and will be publicly opened immediately thereafter. Any submission that is incomplete or which does not meet the minimum qualifications may be rejected. A bid bond will be required as provided in the RFP package.

The qualifications and proposal submissions in response to this RFP will be reviewed and scored by representatives of the Consortium Participants to determine compliance with the RFP instructions, completeness and minimum qualifications of the Offerors. In the selection of a Selected Offeror, the Town Board of the Town of Red Hook reserves the right to waive any informalities in the RFP process and to reject any and all proposals.

Each Contract awarded will contain a provision allowing other New York State municipalities to award contracts to the Selected Offeror on the same Contract terms in accordance with the *piggybacking* provision in New York State General Municipal Law §103.16 for a period not to exceed twelve months from the effective date of the Town of Red Hook Contract.

No Contract is deemed to have been created until approved by the Resolution of a Participant's governing board, and executed by the Chief Elected Official or other authorized official of the Participant at the direction of the Participant's governing board. Any subsequent contract let by a Participant through *piggybacking* shall be subject to prior approval at the discretion of the applicable municipal board.

All contracts are subject to appropriation approved by the Participant's governing board, after having been provided for in the Participant's municipal budget, and each contract executed with a Participant will contain an executory clause providing that if funds for the contract are not appropriated by the Participant in any fiscal year, the Participant will not be obligated to pay the amounts due beyond the end of the last funded fiscal year.

By order of the Town Board of the Town of Red Hook.

Dated: _____, 2017
Sue McCann, Town Clerk

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APPENDIX “A” REQUIRED RFP FORMS

- EXHIBIT A: Price Sheets**
- EXHIBIT B: Non-Collusive Bidding Certificate**
- EXHIBIT Conflict of Interest Statement**
- EXHIBIT D: Tax Compliance Questionnaire**

APPENDIX “B” LIST OF STREET LIGHTS/INVENTORY

APPENDIX “C” CONSORTIUM MEMBERS AND ESTIMATED REQUIREMENTS

APPENDIX “D” FORM OF CONTRACT WITH MUNICIPALITY

- EXHIBIT A to CONTRACT: Standard Clauses for Municipal Contracts (NY)**
- EXHIBIT B-1 to CONTRACT: Scope of Services**
- EXHIBIT B-2 to CONTRACT: Contractor’s Technical Proposal**
- EXHIBIT C to CONTRACT: Fees and Expenses**
- EXHIBIT D to CONTRACT: Term and Commencement Date**
- EXHIBIT E to CONTRACT: Subcontractors**
- EXHIBIT F to CONTRACT: Municipality Special Conditions**
- EXHIBIT G to CONTRACT: Prevailing Wage Determination**
- EXHIBIT H to CONTRACT: Utility Purchase Contract and Operating Contract and Tariff**

APPENDIX “E” SAMPLE FORMS OF UTILITY PURCHASE CONTRACT AND OPERATING CONTRACT AND TARIFF

REQUEST FOR PROPOSALS
INFORMATION FOR OFFERORS AND TECHNICAL SPECIFICATIONS

INITIAL MAINTENANCE AND ENERGY
EFFICIENCY CONVERSION AND
FOLLOW-ON WARRANTY AND MAINTENANCE SERVICES
FOR MUNICIPAL STREET LIGHTING SYSTEM
(Mid-Hudson Street Light Consortium Project)

Town of Red Hook, Administrative Participant for the Consortium Joint Procurement

SECTION 1: Summary

The Town of Red Hook and the municipalities listed at Appendix C (hereinafter referred to as the “Participants”) are members of the Mid-Hudson Street Light Consortium (the “Consortium”). The Consortium is an initiative supported by the New York State Energy Research and Development Authority whose goal is to assist municipalities in converting street lights to light-emitting diode (LED) technology to capture the environmental, financial and operational benefits that LED technology offers.

The Consortium has prepared this Request for Proposals (RFP) so that the Participants may jointly solicit proposals from qualified contractors (hereinafter referred to as “Offerors”) for the Initial Maintenance, Energy Efficiency Conversion, and Follow-on Warranty and Maintenance Services for Municipal Street Light System (Mid-Hudson Consortium Project) in accordance with the provisions of the Contract Documents and the requirements and specifications comprising the RFP package. References herein to term “Municipality” refer to each participating community or “Participant.” References herein to the term “Town” refer to the Town of Red Hook as lead administrator for the joint RFP and as a Participant with respect to its own contract, if awarded and executed. Under this solicitation, it is expected that one Offeror will be selected to complete the work for all of the Participants (the “Selected Offeror”), though more than one Offeror may be selected at the discretion of the Participants. The Selected Offeror(s) shall enter into separate contracts (each a “Contract”) with each Participant at the will of the Participant. The RFP will describe each of the necessary services which shall be priced separately and the Town and any Participant may select one or all of the services as they may require. Each Participant, as well as any subsequent municipality that wishes to “piggy back” on a Contract awarded by a Participant, will enter into a separate Contract with the Selected Offeror.

Each of the Participants has purchased, or intends to purchase, from the applicable utility identified at Appendix B (“Utility”), overhead wired street lights, to be acquired within the next 12 months (subject to Public Service Commission approval), in the approximate quantities described at Appendix B (List of Street Lights/Inventory), and in the aggregate a total light count for all Consortium Participants of approximately 2,868. The acquisition of existing lighting facilities and installation and maintenance to be carried out under the Contract is subject to the terms of a Purchase and Sale Agreement of Street Lighting Facilities by and between the Participant and the applicable Utility (“Purchase Agreement”) and an Operating Agreement of Street lighting Facilities by and between the Participant and the Utility (“Operating Contract”). It is expected that the Selected Offeror(s) will be authorized to begin work as described in Section 4 (Timeline and Calendar of Events). Selection will be in accordance with Section 6 (Method of Award). Funding for subsequent years is subject to annual appropriation.

As stated, the existing street lighting system is being acquired from the Utility and will require maintenance services and conversion to LED technology. The Participant is not responsible for the feeder wires to any lights. The Participant’s responsibility begins at the connect point to the secondary line at the base of the bracket or mast arm. In the case of an underground fed system the connect point is where the feeder wires purchased by the Town to the fixtures are first connected to the utility lines which may be at the base of each pole or at a connect point in a manhole. The Participant may be responsible to install a fuse on each light between the light and the connection to the secondary any time a light is serviced as required by the Utility. Please refer to the Purchase Agreement and Operating Contract between the Participant and the Utility, and the applicable Utility Tariff (together, “Utility Agreements and Tariffs”) for specifics. Sample forms of such agreements are attached at Appendix E. Final contract forms will include copies of the applicable agreements for the Participant and the applicable Utility. The Participant is not responsible for the accuracy of the inventory supplied by the Utility, but believes it to be reasonably accurate and will make every reasonable effort to verify same prior to purchase.

It is anticipated that the Participant will complete a conversion to LED lights for all of the street lights purchased (provided that the Participant may at its option determine to exclude from the conversion any fixtures and any lights already converted to LEDs). This Request for Proposals seeks qualified Offerors to maintain the existing lighting system prior to LED conversion and to perform the LED conversion work along with any follow-on maintenance of the system. In some instances, the conversion to LED lighting may be delayed and the selected Offeror will maintain the existing system (the majority of which are HID) until the conversion work begins.

The LED lights, photocontrols and fuse assemblies, if required, will be supplied by the Participant to the Selected Offeror at the Selected Offeror’s place of business or designated location, or at the Participant’s designated location, at the Participant’s option. The Selected Offeror will not have to supply the LED lights. The Selected Offeror will remove each of the existing street lights in the Participant’s jurisdiction and will replace each light with an LED light fixture, photocontrol and fuse supplied by the Participant. The removed lights and light components will be disposed of by the Selected Offeror in accordance with governing local, state and federal laws. The Selected Offeror will also perform follow-on warranty services and maintenance of the municipal street light system for the Participant on an on-call basis.

Each proposal submitted in response to this Request for Proposals must include, at a minimum, the services (collectively, the “Scope of Services”) described in the following Section 2: Required Services, and Section 3: Detailed Requirements / Special Instructions to Offerors.

The Town reserves the right to select one or more Offerors and to divide up the required work, but given the relatively small number of lights, will likely award the Contract to one Offeror.

Following the initial award to the Selected Offeror, municipalities in the region described at Appendix C may decide to enter into separate “piggybacked” contracts with the Selected Offeror at the will of such municipality. The Selected Offeror(s) shall enter into separate contracts (each a “Contract”) with each such municipality at the will of the municipality.

SECTION 2: Required Services

The description in this Section 2 is subject to the further provisions of the Contract and this RFP.

2.1 Initial Maintenance Services

Maintenance services, as needed, will begin immediately upon acquisition by the Participant of the existing street lighting system from the Utility prior to LED conversion. As a result, the Selected Offeror will be required to maintain the existing system prior to beginning the conversion work. As part of initial maintenance services, the Selected Offeror will be required to:

- Supply all materials required to maintain the existing system.
- Provide on-call service to repair any failed street light. Such work will be on a Time and Materials basis except as provided in Section 3.2(A). All reported inoperable lights will be serviced within five (5) working days or less from the date of notification to the Selected Offeror. The five (5) working days shall be measured beginning the first full day following receipt of the outage report, the first full day following receipt of a batch list, or counting from a set day, if established, on which work generally will be performed.
- Provide a full range of street lighting maintenance services, which shall include:
 - 24-hour toll free call center operation;
 - Replacement or service of all failed lighting components with like or better components (any changes in equipment will be approved by the municipality before installation);
 - Emergency services and knockdown work;
 - Monthly reports of all work performed;
 - Proper and lawful disposal of all materials and evidence thereof (e.g. waste manifests, if required);
 - In the event a fixture must be entirely replaced during this period of initial maintenance, the Participant may opt to have it replaced with an LED consistent with what they plan to install once the conversion begins. In this event the Participant will supply the required fixture and maintain the initial

inventory of LED spares consisting of approximately 10 fixtures (this number may be adjusted from time to time in coordination with the Selected Offeror).

2.2 LED Installation/Conversion

LED Installation/conversion services shall include:

- Remove all existing street light fixtures scheduled for conversion and install the provided LED street light fixtures and photocontrols in accordance with the detailed installation list and guidance to be provided and in accordance with Utility Agreements and Tariffs. All LED Fixtures will be installed in accordance with the manufacturer's instructions and will be reasonably level so as to limit water entry into the fixture from the mast arm;
- In conjunction with the installation of the fixtures, it will also be a requirement to install the approved fuse assembly, when required by the Utility, if one does not already exist between the base of the mast arm and the connection to the secondary wires;
- Attach labels to indicate ownership. These labels will be supplied by the Participant, except as may otherwise be agreed to by the Participant and the Selected Offeror as part of the Agreement between the parties;
- Dispose of all waste materials in accordance with all applicable Federal, State and Local Laws and Regulations Provide required documentation (e.g. waste manifests, if required) to the Participant for the Participant's records;
- Identify any failing mast arms or seriously degraded wiring for replacement. Replacement work will be performed separately and only with approval of the Participant;
- The Participant may at its option request as part of the installation that the contractor record the GPS location of each pole with a price adjustment specified in the proposal (Alternates). The Participant may at its option choose to employ a streetlight control system, and in such case the recording of the foregoing data, along with the Mac address of the control would be required with a price adjustment specified in the proposal (Alternate). Record all information on the pole numbers, equipment installed and dates, as well as other information required by the Utility, and provide weekly electronic reports on excel spreadsheets using the format supplied by the Participant;
- Commission all intelligent controls installed (see 3.1F);
- Identify any errors in the supplied inventory;
- Provide a full warranty for all workmanship; if at any time the Selected Offeror's workmanship is determined to be faulty or not in accordance with good Utility practice at the time of installation, the Selected Offeror shall be required remedy to said deficiency at no cost to the Participant;

- The Selected Offeror shall be responsible for all warranty replacements for the first 90 days at no cost to the Participant. Thereafter the Participant shall be responsible for labor associated with equipment warranty replacements;
- In the event of a situation requiring the work of the serving utility company such as a no power situation, coordinate with the serving utility to complete the work and notify the Participant of the request.

2.3 Maintenance Services Following LED Conversion

Provide all equipment, qualified personnel and supplies necessary to provide timely services to all out of service LED lights during the term of the Contract. This work will generally be on-call with all work to be completed within five (5) working days of the request. Included in this work are all repairs necessary to keep the lights functioning properly. See Section 3.3.

SECTION 3: Detailed Requirements / Special Instructions to Offerors

After acquisition from the Utility, the Participant intends to convert its system to LED lamps. A Participant may elect to have an intelligent control system for some or all of its lights. Prior to and during the conversion process the existing system will have to be maintained, as described in Sections 2.1 and 3.2 and 3.3. Once the system is converted to LED technology and following the required warranty period for all work of the Selected Offeror, any required repairs shall be on a Time and Materials basis in accordance with the price schedule supplied and approved for the Offeror. The Selected Offeror's workmanship shall always be guaranteed. In the event of a subsequent repair identified that is the result of poor workmanship of the Selected Offeror, such repair shall be at the sole expense of the Selected Offeror. Additional details regarding required services follow.

3.1 Energy Efficiency Conversion

- A. All required fixtures, photocells and controls will be procured by the Participant through a separate procurement. The equipment will be shipped to the Selected Offeror's place of business or designated location, or at the Participant's designated location, at the Participant's option. The Selected Offeror will verify the counts and details of the received equipment to the Participant and will thereafter be responsible for the accepted quantities.
- B. The Selected Offeror will, in coordination with the Participant, meet with Participant officials to schedule the work and identify any traffic, police details or other considerations in scheduling the work. Some work may be required outside of normal daytime working hours. Every effort will be made to minimize overtime work. The Selected Offeror shall be responsible to provide and pay the cost of traffic safety and control in the work area, including, but not necessarily limited to, flag persons. Police services will not be provided by the Participant for such purposes.

- C. To facilitate efficient work flow, any necessary repairs to mast arms, internal wiring, or other repairs will be completed separately from the conversion component. Street lights requiring these repairs will be remediated and converted to LED after the conversion of lights that do not require such repairs. In addition, should any HPS (high pressure sodium), fixture fail during the light replacement phase of the project in an area that will not be scheduled for work for more than two weeks (out of sequence work), that fixture will be replaced with the designated LED for that location promptly and out of sequence at the Participant's discretion. Otherwise, the Participant may agree to allow such failed fixtures to be addressed in sequence when that area is scheduled rather than replaced out of sequence. The general approach for the LED conversion is to replace the existing fixtures as quickly as possible to maximize the savings benefit from the switch to LED technology.
- D. All LED fixtures will be installed in accordance with the manufacturer's instructions and mounted reasonably level so as to limit water traveling down the mast arm from entry into the fixture. If the Offeror encounters any mast arms that are so badly deteriorated or where the internal wiring is brittle and unsafe so as to prevent proper installation, the Participant will be notified so it can authorize replacement. Any removed mast arms or wiring will be made available for inspection by the Participant.
- E. Fixture Inventory. All fixtures installed will be noted on the provided excel spreadsheets. The pole number will be verified and the wattage of the removed fixture verified. Any errors in the inventory sheet will be noted.
- F. Commissioning. All LED fixtures installed with the intelligent control devices may require commissioning. The commissioning process involves using a bar code reader and GPS device (typically an iPad) to record the bar code of the control device and the GPS location of the fixture. This information is then related to the supplied inventory sheet. The necessary equipment will be supplied by the Participant under a separate procurement. This process adds less than 1-2 minutes to the installation process and can be done with experience in less than 30 seconds. The information is recorded by the installer on the ground before going up in the bucket truck to install the fixture.
- G. Decorative Fixtures. Existing decorative fixtures may be retrofitted once a suitable retrofit kit is identified and approved by the Participant. The price for that work will be quoted separately as part of the follow-on work under this Request for Proposals.

3.2 Routine On-Call Maintenance Component

- A. Pricing Approach. In the event that the Participant shall choose to retain the existing system for an extended period of a year or more before conversion to LED, the Participant may elect an alternate price for maintenance on the basis of a fixed price per light per month and such price will include materials except as otherwise noted. Unless the Participant selects this alternate the repairs shall be on a Time and Materials basis using the price quotes on the provided pricing schedule. Prices for any items not listed shall be agreed on by all parties prior to commencing work. Each Participant will make an

election of the fixed cost per light approach or the Time and Materials approach when the delay will be longer than one year and that election shall be reflected in the Contract between the Selected Offeror and each Participant.

- B. Call Center Operation. The Selected Offeror must have a 24/7 call center to receive reports of outages from all potential sources. The call center is a vital component of the operation because the Selected Offeror must schedule the work based on input from the call center as well as other sources and also because, as the primary customer contact, the call center will establish and manage customer expectations. The call center also collects performance data and prepares reports as required by the Participant. Any calls received shall be responded to promptly but in no case later than the following workday from when the call is received, except when the caller does not expect a response. In general, it is expected most calls will be routed through the call center except where the Participant opts to be the primary point of contact. The call center will be available to receive calls 24/7. Once per month, or as may be otherwise agreed, a report will be provided to the Participant detailing the services performed during the prior month including all calls received and from whom, the respective Participant, the date of repair, and the nature of the repair. It is expected that any time a crew is out, they will look for outages and make appropriate repairs as authorized by the Participant at that time.
- C. On-Call Maintenance Following Energy Efficiency Improvements. All supplied fixtures and materials used in repairs and maintenance shall be installed in accordance with the manufacturer's instructions and any instructions provided by the Participant. The Selected Offeror is responsible for the proper disposal of all waste materials generated in the performance of this Contract. All hazardous or potentially hazardous materials (e.g. possible PCB containing light ballasts) will be disposed of in accordance with applicable laws and appropriate records maintained as required by law. Any time a light is serviced, the date, time, nature of the repair, and pole number will be recorded and, in the case of fixtures with intelligent controls, the new bar code read and recorded along with the pole number.
- D. Coordination with Utility. The Selected Offeror will be responsible for coordinating its activities with the Utility on behalf of the Participant as may be required by the Utility Agreements and Tariffs, and will be responsible to keep the community informed of such coordination. Such interaction may include no power situations, knockdowns, pole transfers, stray power, lights too close to primary wires or transformers, voltage issues, underground faults, reconnections, de-energizing or any other conditions requiring the Utility support to permit a repair and to return the light to service.

3.3 General Maintenance

- A. Includes all operations and services necessary to keep all of the Participant's streetlights operational. Actual counts may vary from the Utility-provided inventory depending on final counts following completion of the LED conversions. General Maintenance consists of the call center, general overhead, all equipment, qualified personnel, and, as required, the replacement of all components of light fixtures including replacement of the entire

luminaire with a like item or equivalent fixture, ballasts, starters, igniters, fuses, lenses, reflectors, connective wiring, and brackets that have failed due to normal age and or deterioration. Also included is general cleaning of all components of the fixture during any service, trimming of branches less than 1.5 inches in diameter within three feet of the luminaire that may interfere with the illumination of the street (“Tree Trimming”), subject to the requirements of the Utility, and quarterly night checks of all lights in the Participant’s jurisdiction.

- B. Pricing Approach. Pricing for maintenance services shall be on a time and materials basis, unless, per Section 3.2.A., the Participant has chosen to retain the existing system for an extended period and elected a fixed price per light per month. For the purposes of this RFP, Offerors will be required to post prices for specific estimated quantities of this work and will be bound by the quoted prices for the duration of the Contract. However, the quantities used are estimates only and are not a guarantee of the costs of the work. The Participant may at any time determine that it is either required or it is in the best interests of the Participant to seek additional bids for unusual or extra items such as underground repairs.
- C. Timing of Repairs and Method of Notification. All general repairs that are the responsibility of the Selected Offer or must be completed within five (5) working days starting with the first working day following the reported outage unless otherwise agreed to in writing by the parties following the date of notice. Receipt of approval to perform work by the Participant shall be deemed written approval, provided the email is sent by a person authorized by the Participant to approve the work. Any outages reported on a holiday or a weekend will be considered as reported the first working day after the holiday. As an example, a lamp that is reported on Sunday shall be deemed to have been reported on the following Monday and the first counted day shall be Tuesday. This repair must be completed by the following Monday at midnight. All non-routine repairs such as pole transfers, knockdowns, storm damage, underground faults, repairs requiring actions by the Utility shall not be subject to the five (5) day requirement but rather will be separately agreed to by the parties.
- D. In the event the Participant employs intelligent controls, then the report of outage may be an electronic report generated by the control network.
- E. Damages for failure to perform repairs within prescribed periods. THE CONTRACT BETWEEN THE PARTICIPANT AND THE SELECTED OFFEROR WILL CONTAIN A LIQUIDATED DAMAGES PROVISION FOR EACH DAY OF NON-PERFORMANCE AND/OR FAILURE TO PERFORM REPAIR WITHIN THE PRESCRIBED PERIODS.
- F. Routine Replacements. This section applies primarily to maintenance of the existing HID system. Routine replacement includes replacement of failed lamps (bulbs), photocells, ballasts, starters, igniters, standard lenses, reflectors, approved fuse holders, and fuses to be supplied through the Participant (purchased through a separate process and supplied by the Participant) for any remaining HPS fixtures. Also included is the provision of appropriately trained personnel, equipment, and overhead equipment necessary to routinely replace lamps, photocells, and other street light components, cleaning of the

lenses as necessary in conjunction with the service, replacement of lenses that are discolored or damaged, Tree Trimming, and general cleaning of the fixture to remove any foreign material such as nests. The price for replacements is to be expressed in cost per repair labor and (see pricing sheet for specifics) materials to be at cost plus standard (see price sheet) markup as bid. The Proposal amount will be based on the prices quoted multiplied by the estimated quantities of each type fixture repair to arrive at a total price for this component.

- G. Call Center and Reporting. Price should include operation of a call center and the preparation of regular performance reports. The Selected Offeror will be required to have a 24/7 call center for outage or other contact as may be needed such as for emergency response that is answered by a person at all times. Such person shall be adequately trained to gather the information necessary to perform the needed work and shall deal with the caller in a respectful manner at all times. A record of all calls will be included as part of the routine reporting as may be required by the Participant. In addition, the Selected Offeror shall keep records of all performed services and repairs including the date the request was made, the source of the request, the date the work was performed, and the nature of the repair (e.g. "replaced photocell"). The Selected Offeror shall provide reports as may be required by the Participant. During the conversion phase, the Selected Offeror shall be required to report weekly all conversions completed detailing the date the work was done, the specific wattage of the LED installed, the address, the pole number, the initials of the installer and any other noted special conditions. Such reports may be transmitted electronically.

- H. Warranty Repairs of LED Lights. All existing LED lights and all newly installed LED lights and photocontrols are expected to have a ten-year warranty. Repair of these fixtures/components is a repair by replacement and the non-working fixture/component exchanged through the supplier. The Selected Offeror will coordinate such warranty exchanges as needed and in accordance with procedures jointly developed between the manufacturer's distributor, the Participant and the Selected Offeror. The Participant will supply a minimum reserve stock of fixtures/components to ensure repairs can be performed in a timely fashion. Fixtures used from the reserve stock will be replaced by the warranty replacement supplied by the supplier so as to maintain a continuous stock of reserve fixtures. Any contested warranty issues with the designated supplier will be brought to the attention of the Participant and the product vendor for resolution. Warranty replacements must be completed within five (5) working days following notice of the failure and availability of the warranty replacement fixture. Any replacement for a failed intelligent control fixture will be required to have its bar codes and location information recorded for inclusion in the Participant's data base. Locational information (street name and pole number) on equipment replaced under warranty must also be kept and provided to the Participant so they can track warranty repairs.

- I. Emergency Work. Emergency work is defined as work necessary to render the scene safe and, to secure any Participant-owned equipment from the roadway and or the sidewalk. Emergency work is normally done in response to a knockdown or storm damage and will be the result of a notice received from the Participant, the Utility, or local emergency

responders, provided that in the event the notice is received from other than the primary Participant contact, immediate notice shall be given to the primary Participant contact. Participant-owned equipment that can be picked up by the personnel at the scene will be picked up and removed for later delivery to the Participant or for disposal if non-salvageable and its disposal approved by the Participant. These costs are will be billed separately at the time and materials price.

- J. Knockdowns. The Selected Offeror's initial responsibility in the event of a knockdown or storm damage is limited to making the site safe and recovering any Participant-owned equipment. The day following the securing of the site and/or removal of the equipment, the Selected Offeror shall provide a cost proposal to complete the needed repairs/replacement. The Participant may submit a claim to an insurance company providing coverage for the repair, in which case, the Selected Offeror may be directed to contact the insurance company to arrange payment to do the work. The Participant may also seek additional quotes for this work as it may be in the Participant's best interest. Repair work includes adding brackets and luminaries to existing wooden poles, installation of new poles (wood, steel, or aluminum) and standard or decorative fixtures, installation of new underground conduit lamp bases, poles and fixtures, and the installation of replacement LED or other fixture as determined by the Participant. Pricing for this work is provided for the purpose of estimating the potential cost of such work for budget planning purposes and to determine the total value of such work for the term of the Contract. Should the Participant request such work of the Selected Offeror it will be based on the estimates provided or some other lower price as may be agreed to in advance by both parties.
- K. Failed Fixture Replacement. Includes installation of a new fixture (applies to cobraheads only) where the Participant is maintaining the existing HID system. The Participant may provide replacement LED lights to be used in lieu of replacing failed HID fixtures with another HID fixture. Failed decorative fixtures shall be dealt with as "Extra Work" and separately bid at the time of needed replacement.
- L. Photocells supplied by the Selected Offeror as part of the follow. On maintenance services for HID lighting shall be designed for not less than 5,000 cycles and must meet Utility Agreements and Tariff specification requirements for the Utility serving the Participant. Standard photocells must meet the specifications provided by the Utility.
- M. Intelligent control devices, specialized photocells and long-life photocells used as part of the LED conversion shall be supplied to the Selected Offeror by the Participant. The Participant will provide a basic stock of replacement units for that Participant that shall be maintained and accounted for by the Selected Offeror. The parties shall agree on a process for maintaining the required stockage.
- N. Fusing. When required per Utility Agreements and Tariffs, all lights will have a fuse and fuse holder installed the earlier of when a light is installed or when the light is serviced the first time. Once all lights are fused, no further fuses or fuse holders will be required. Failed fuses shall be replaced as part of any service call.

- O. Extra work. Includes any special work not covered above. The price should be expressed in dollars per hour for each class of employee inclusive of equipment which may be used on the job using the provided costing sheets. Materials are to be billed as a separate item. The Offeror must indicate any standard markup percentage for supplied materials. These prices are supplied for estimating purposes and for application to any work in this category within the term of the Contract.
- P. Data Recording for intelligent control system installation. During the installation process for any intelligent control device the bar code on the control device, the bar code on the fixture if available, the pole number, and the GPS coordinates will be recorded and reported weekly for work completed to date. Any discrepancies with the inventory and the equipment currently in place will also be noted. The Participant will provide necessary training and equipment for the commissioning process.

SECTION 4: Timeline and Calendar of Events

All dates are estimates subject to modification at the discretion of the Town.

Pre-Offer Conference: There will be a mandatory pre-offer conference at the Town of Red Hook Town Hall, 7340 South Broadway, Red Hook NY, 12571, at a date and time of the Town's choosing.

Deadline for Receipt of Proposals: To be determined by the Town. Also see Section 9.

Anticipated Contract Award by Town of Red Hook: 60 to 120 days from deadline for receipt of proposals.

Anticipated Contract Award by other initial Participants: Following award by Town of Red Hook, up to 12 months from contract execution by Town of Red Hook.

Contract Execution: Selected Offeror to present executed Contract with Bonds and Insurance to Town of Red Hook within 10 Business Days of contract award. Selected Offeror to present executed Contract with Bonds and Insurance for other Participants within 10 Business Days of Contract award by each Participant. Contract execution by Town of Red Hook and each Participant is subject to approval and execution of Utility Agreements by the Participant.

Notice to Proceed: For Town of Red Hook and each other Participant: Notice to Proceed will be subject to receipt by the Participant of PSC Approval of such Participant's Purchase Agreement and Operating Agreement with the Participant's Utility and closing on such agreements by the Participant.

Potential award by "piggybacking" Participants: Up to 12 months from the effective date of the Town of Red Hook Contract.

SECTION 5: Term of Contract

The Contract between the successful Offeror and the Participant shall be for a period of three (3) years with one additional extension for a further two-year period, at the option of the Participant on 60 days' notice.

The Participant reserves the right to terminate the Contract with thirty (30) days' notice in the event of unsatisfactory performance of the Selected Offeror or for the Participant's convenience. Each Contract will also contain an executory clause providing that if funds for the Contract are not appropriated by the Participant in any fiscal year, the Participant will not be obligated to pay the amounts due beyond the end of the last funded fiscal year.

SECTION 6: Method of Award

The selection process will utilize a best value approach, based on a combination of qualifications and pricing as described below.

SECTION 7: Qualifications and Evaluation Criteria

Each Offeror shall provide a written proposal demonstrating its qualifications outlined in this section. A simple statement of qualification will not be sufficient; the Offeror must provide specific examples with sufficient detail for the Town to determine from the written proposal whether the Offeror meets the above qualifications. If an Offeror believes it has examples of work that would be the equivalent of the required qualifications, it may submit them for consideration. The Town reserves the right to reject any submissions that in its opinion are not equivalent or inadequately described. Failure to satisfactorily address each of these qualifications will result in rejection of the Proposal at the sole discretion of the Town. All pricing will be based on the pricing sheet submitted in response to this RFP. The Selected Offeror will be responsible for the cost of installation of the LED fixtures and the removal costs for the old fixtures. Included in the pricing sheet will be fixed costs for certain common repairs. See pricing sheets in the price proposal section of this RFP for full details.

Each company will be rank ordered and scored. The score for each component will be weighted and the total end score will be developed for each Offeror. The final scores and any other factors deemed important will determine which company(s) are selected. The Town reserves the right to select one or more Offerors as may be in the best interest of the Town. The Contract will not become effective until it is executed by an authorized representative of the Participant, upon governing board resolution.

7.1 Experience

Offerors must have not less than two years' experience maintaining a municipal or government owned street lighting system or providing on-call repair services to outdoor lighting or other facilities, as well as a demonstrated ability and experience to satisfactorily install and maintain street lights on wood, metal and concrete poles including installation of the poles both with and without

foundations and associated underground service. Offerors who believe they have demonstrated experience providing on call service of a sufficient size and duration to be similar may detail such experience and why they believe it should qualify.

Provide information to demonstrate the above experience qualifications. - **15%**.

Unacceptable: The Offeror has no relevant experience. (0)

Acceptable: The Offeror can document relevant experience in at least one location and provide references and relevance. (1)

Advantageous: The Offeror can document relevant experience in more than two locations and provides a list of references and relevance. (2)

Highly Advantageous: The Offeror can document extensive relevant experience on street light systems and provide a list of references and relevance. (3)

7.2 Staff and equipment to carry out the Contract

The Offeror must have the necessary staff and equipment to perform the work or must demonstrate the ability to obtain the necessary manpower and equipment within a reasonable time following execution of a Contract between the Participant and the Utility in addition to manpower necessary to service any other existing ongoing contracts. The Offeror must have at least one insulated bucket truck available or at its disposal capable of reaching 35 feet, as well as sufficient additional bucket trucks and the ability to field sufficient crews to complete the conversion portion of the work in the Participant within a reasonable period, but in no event longer than 6 months from the respective Participant's Closing on the purchase of the street lights, contingent on the availability of equipment to be provided by the Participant as described herein. Generally, it is expected that a Selected Offeror will be capable of installing 500 cobrahead style fixtures per week. Please note a typical experienced electrician can install roughly 25 lights per day and 125 per week. The number of crews required overall (one electrician each) will be dependent on the number of Participants and the timing of their requirements. Offerors must demonstrate availability either through ownership, lease, loan, or partnership of other needed equipment such as pole trucks, auger trucks, jack-hammers and associated compressors, cranes, etc. as may be typically required for street light maintenance and repairs including knockdowns or decorative underground fed lighting. Offerors must have sufficient licensed electricians and or journeyman linemen on staff who are qualified electrical workers under Occupational Safety and Health Administration (OSHA) 1910.269 under the aforesaid definition of Qualified Worker. All work must be performed by "Qualified Workers" who meet all requirements in accordance with the terms of the attached Utility Agreements and Tariffs. Use of non-qualified personnel is justification for immediate termination of the Contract.

Provide the names and qualifications of all personnel employed by the Offeror who will be assigned to do the work and copies of their certifications. Provide the names and contact information of the responsible supervisors or company representative who would manage the work. Indicate associated times that the Offeror is prepared to take over maintenance of the system. -- **15%**

Unacceptable: The Offeror does not have the necessary resources to perform the work. (0)

Acceptable: The Offeror will hire needed staff and lease or purchase the necessary additional equipment. (1)

Advantageous: The Offeror has the necessary staff and equipment to perform the work or has demonstrated the ability to have the necessary manpower and equipment within a reasonable time (2-3 weeks) from Contract award. (2)

Highly Advantageous: The Offeror has the necessary staff and equipment to perform the work and could begin within three weeks of Contract award. (3)

7.3 Quality and appearance of Equipment

Offerors must provide a list, along with photos, of the equipment available to perform the work. The list should include year, make and model of the equipment. Bucket trucks must be double insulated - --- **10%**

Unacceptable: Equipment is in a poor state of repair and does not present a good appearance. (0)

Acceptable: Offeror owns appropriate bucket trucks and equipment for performance of the work. Equipment is in a good state of repair and presents a good appearance. Company logo and phone number appears on the vehicle. (1)

Advantageous: Equipment is in an excellent state of repair and presents a good appearance. Company logo and phone number are prominently displayed on the vehicles. (2)

Highly Advantageous: Equipment is in an excellent state of repair and presents a professional, nearly new appearance. Provide photos Company logo and phone number are prominently displayed. All employees wear uniforms. (3)

7.4 Quality of References

Provide a list of references for **all** work over the past two years and highlight any similar municipal street light maintenance contracts or major outdoor lighting systems or other on call lighting service. Use the format below (note: this customer list will be used to assess other company qualifications as well), e.g. 7.6 and 7.7. The evaluation team may secure and use information from any customer -- **15%**

Project Name	Project Scope Description	Project Cost Estimate	Final Cost	Start date	End Date	Contact Name, email, phone #

Unacceptable: The Offeror does not have any favorable references on similar contracts. (0)

Acceptable: The Offeror has both favorable and unfavorable references on similar contracts. (1)

Advantageous: The Offeror has favorable references on similar contracts. (2)

Highly Advantageous: The Offeror has uniformly exceptional references on similar contracts. (3)

7.5 Call Center Operation

The operation of a 24-hour call service with a single toll-free number answered at all times by a person to receive outage reports. This call service will be tested. If the call is routed to an answering service and a return call from the Offeror's on call person is not received within one hour (60 minutes) the call center will be deemed unacceptable and may be cause for rejection of the Offeror's qualifications. The call center may be a direct link via only one phone number to the on-call person that provides toll free service for the caller or any other means of connection to a responsible person for receipt of the outage report or questions concerning the Contract. As an example, the Offeror may engage the services of a call center who receives the call, gathers the required information, location, condition, and pole number and then relays that information immediately to the Offeror's on-call person. The Offeror's on-call person will receive the call and take the appropriate action. The 60-minute call back requirement mentioned above will only apply to the test of on Offeror's existing system. If the Offeror does not have such a service, it must indicate both its willingness to set up such a service and how it proposes to do so. Each Offeror must provide sufficient detail to instill confidence that its plan is well thought out. Prior to final selection, the Selected Offeror must have a call center in place and pass an acceptability test. -- **5%**

Unacceptable: The Offeror does not have a dedicated call center operation and has not provided an acceptable plan for providing this service. (0)

Acceptable: The Offeror has a dedicated call center operation to receive and log all street light calls and completion/status of service requests. (1)

Advantageous: The Offeror has a dedicated call center that develops a computer based record of all lamps including pole number, nearest address, lamp type, service history, logs all calls, and provides status/completion records of service requests. (2)

Highly Advantageous: The Offeror has a dedicated call center answered at all times by a person that develops a computer based record of all lamps including pole number, nearest address, lamp type, service history, logs all calls, and provides status/completion records of service requests. The Offeror will provide customer call backs at any time they are not able to meet the minimum five business day response time. (3)

7.6 Response Times

Response times will be evaluated based on reference checks with prior on-call contracts --- **5%**

Unacceptable: The Offeror fails to meet a one week (five business day) repair time for burn outs or photocell replacement and two-week repair time for fixture replacements. (0)

Acceptable: The Offeror meets a one week turnaround time for burnouts and photocell repairs and completes fixture replacements within two weeks. Customers are provided a schedule for repair and it is met. (1)

Advantageous: The Offeror will exceed the above performance standard and provide a mechanism of customer feedback on all calls where the standard cannot be met. (2)

Highly Advantageous: The Offeror will meet a two-hour response time on emergencies, a five business day or less for routine repair of all lighting components, 96 hours on fixture replacements, and provide continuous customer feedback. (3)

7.7 Reputation/Company History

Reputation and company history will be assessed through reference checks, company information submitted by the Offeror, investigations by the Consortium and Town. -- **15%**

Unacceptable: Offeror have complaints filed, previous customers were unsatisfied, there are previous lawsuits against the company, or they receive negative recommendations from prior clients. (0)

Acceptable: Offeror has been in business for more than three years and work is deemed acceptable.(1)

Advantageous: Offeror has been in business more than five years and has a good reputation. (2)

Highly Advantageous: Offeror has been in business more than five years and has an excellent reputation-is highly recommended by previous clients. (3)

7.8 Pricing

See Pricing sheets appended in Section 13--- **20%**

SECTION 8: Correspondence Prior or During Proposal Submission Period

Any information released by the Town either verbally or in writing before the issuance of this Request for Proposals shall be deemed preliminary and does not bind the Town or the Offeror.

The Town will not accept oral supplements, revisions or changes to the responses to this Request for Proposals. Written supplements, revisions or changes will be accepted before the Proposal submission deadline only if submitted in a properly labeled sealed envelope received by the Town Clerk before the deadline.

The Town will establish a project coordinator. All inquiries and communication concerning this Request for Proposals must be made in writing to Ann Conway, Business Office, Town of Red Hook, 2340 South Broadway, Red Hook, NY 12571. Inquiries and communication concerning this RFP may

also be submitted via email to aconway@redhook.org. No inquiries will be accepted after five (5) business days prior to the Proposal due date. The Town may in its discretion issue amendments to the Request for Proposals, which will be emailed to all persons who have requested a Proposal package, as evidenced by their securing Proposal copies and filing their email address with the Town's project coordinator designated above. The Town is not responsible to communicate with any interested party who has failed to file its email.

Offerors must respond in writing to all follow-up questions by the Town concerning their Proposals.

SECTION 9: Submission of Proposals

Proposals must be submitted and received no later than the time and date provided in Section 4, at the Office of the Town Clerk of the Town of Red Hook, 2340 South Broadway, Red Hook, NY 12571.

The Proposal is to be submitted in two sealed envelopes as follows:

Envelope 1 (Qualifications and Other Documentation) must be labeled "Town of Red Hook Street Light Initial Maintenance, Energy Efficiency Conversion and Follow-on Warranty and Maintenance Services, Qualifications and Other Documentation" and must at a minimum, contain the following:

- Qualification responses and supporting documentation. **Note: The inclusion of "boilerplate" qualifications is not advantageous; this section should be under 10 pages.**
- Signed Certificates: Certificate of Non-Collusion, Conflict of Interest Statement and Certificate of Tax Compliance.
- Signed Request for Proposal Signature Page with corporate signature authorization if a corporation.
- Valid insurance certificates (see Section 12.4)
- Waste disposal information (see Section 12.10)
- Valid Bid Bond (see Section 12.11)
- FOIL request letter, if applicable (see Section 12.15)

Envelope 1 must NOT contain any pricing information.

Envelope 2 (Price Proposal) must be labeled Street Light Initial Maintenance, Energy Efficiency Conversion and Follow-on Warranty and Maintenance Services, Price Proposal (Mid-Hudson Street Light Consortium Project)" and must contain ONLY the following:

- Completed Price Proposal with math double checked for accuracy, signed by the same individual as signed the Request for Proposal Signature Page.

Envelope 2 must NOT contain any qualification information.

SECTION 10: Proposal Review and Contract Award

10.1. Preliminary Review.

At the designated time and date, the Town Clerk will publicly open Envelope 1. The Town Clerk, aided by a designated committee of Participant officials and consultants, will make a *preliminary* determination whether the Offeror has submitted all information and certifications required. Such preliminary determination shall be subject to a further, more detailed review of qualifications during the scoring phase. Those Offerors whose envelopes fail to contain the required content may, but need not be, disqualified at that point in time. The Town reserves the right to evaluate an apparently deficient bid, based on the nature of the deficiency, i.e., whether material or *de minimus*, and whether the deficiency can be corrected within 24-hours. The Town reserves the right to consider all information available to it in awarding this Contract, and may, if it determines same to be in the best interest of the Town, re-advertise or not award a Contract. The Town will very likely seek information from a variety of sources to determine the reputation and prior performance of any company on previous works. Non-acceptance of any Proposal will not imply any criticism of the Offeror or convey any indication that the Proposal was deficient except in the case of incomplete or inadequate Proposal submissions. The award will be based on the highest overall evaluation scores submitted by a qualified Offeror. All materials submitted in response to the Request for Proposals become the property of the Town and will be returned only at the option of the Town. Such documents will become public records to the extent required by law. The Town has the right to use any or all ideas presented in response to the Request for Proposals, whether amended or not. Selection or rejection of the Proposal does not affect this right. Firms responding to this Request for Proposals will not be compensated for costs incurred in preparing their Proposals.

10.2 Selection and Contract Award

- A. It is the Town's goal to have an Offeror selected by the date shown in Section 4 and to authorize the Selected Offeror to begin work immediately after the Town has acquired its street lights.
- B. The Selected Offeror must agree to honor price quotes for the full initial term of the Participant's contract, provided that the contract is awarded by a Participant pursuant to this Consortium RFP within 12 months of initial Contract execution by the Town of Red Hook, or such contract is awarded by a municipality under the "piggybacking" provisions within twelve (12) months of the effective date of the Town of Red Hook Contract.
- C. Selection of the Selected Offeror(s) is in the sole discretion of the Town Board. The Town reserves the right at any time to accept any Proposal in whole or in any part, and to reject any or all Proposals if it serves the Town's best interests.
- D. Award of the Contract is in the sole discretion of each Participant as to its own jurisdiction.

SECTION 11: Reserved Rights

The Town reserves the right to:

- Reject any or all proposals received in response to the RFP;
- Withdraw the RFP at any time, at the Town's sole discretion;
- Make an award under the RFP in whole or in part;
- Disqualify any Offeror whose conduct and/or proposal fails to conform to the requirements of the RFP;
- Seek clarifications of proposals;
- Use proposal information obtained through site visits, management interviews and the Town's and Consortium's investigation of an Offeror's qualifications, experience, ability or financial standing, and any material or information submitted by the Offeror in response to the Town's request for clarifying information in the course of evaluation and/or selection under the RFP;
- Amend any portion of the RFP prior to the proposal opening;
- Prior to the proposal opening, direct Offerors to submit proposal modifications addressing subsequent RFP amendments;
- Change any of the scheduled dates;
- Waive any requirements if determined to be in the Town's best interests;
- Utilize any and all ideas submitted in the proposals received;
- Unless otherwise specified in the solicitation, every offer is firm and not revocable for a period of 150 days from the proposal opening; and,
- Require clarification at any time during the procurement process and/or require correction of arithmetic or other apparent errors for the purpose of assuring a full and complete understanding of an Offeror's proposal and/or to determine an Offeror's compliance with the requirements of the solicitation.

SECTION 12: General Provisions

12.1 Performance of Services

- A. Unless clearly stated in the Selected Offeror's Proposal and incorporated into the Contract, none of the services to be provided by the Selected Offeror pursuant to the Contract shall be subcontracted or delegated to any other organization, association, individual, corporation, partnership or other such entity without the prior written consent of the Participant.
- B. The Selected Offeror and its personnel shall perform 100 percent of all the work under the Contract, except as may be required under emergency circumstances or as otherwise

approved by the Participant, measured either in value of services rendered or in Selected Offeror's time spent on such services. Subcontracting may be allowed for specialty work and to meet legal requirements such as Minority Business Enterprise (MBE)/Women's Business Enterprise (WBE) goals or to help with prevailing wage reporting, etc. subject to the Participant's approval.

- C. The Participant may require the Selected Offeror to exclude any of the Selected Offeror's personnel and/or approved sub-contractors from any further work under the Contract if, in the Participant's sole opinion, (i) the individual or sub-contractor is not qualified as described in Section 7, or does not perform at the applicable skill level, as described in the Request for Proposals and/or the Selected Offeror's Proposal, (ii) the individual does not deliver work which conforms to the performance standards stated in the Request for Proposals and/or the Selected Offeror's Proposal, or (iii) personality conflicts between the individual or sub-contractor and Participant personnel hinder effective progress on the work of the project or assignment for which the individual is responsible. Employees of the contractor are expected to exhibit the utmost courtesy when dealing with the public and or Participant personnel. Repeated complaints may result in the request for relief or reassignment of the offending individual and or termination of the Contract.
- D. No subcontracts or delegation shall relieve or discharge the Selected Offeror from any obligation or liability under the Contract except as specifically agreed to in writing by the Participant. The Selected Offeror shall be as fully responsible to the Participant for the acts and omissions of its sub-contractors and of persons either directly or indirectly employed by them, as it is for the acts and omissions of persons directly or indirectly employed by it.
- E. The Selected Offeror shall comply fully with the terms of the Utility Agreements and Tariffs and any other applicable Utility Licensing Contract, except as may be agreed to in writing by the Participant.

12.2 Time

- A. Under the Contract awarded, the Selected Offeror agrees to adhere to the time requirements and schedules included in the Contract, to perform its services as expeditiously as is consistent with the standard of professional skill and care required hereby, and to perform its services in coordination with the operations of the Participant related to this Contract and with any party engaged by the Participant in connection with the Contract. It shall be the obligation of the Selected Offeror to request any information necessary for the performance of the Selected Offeror's services.
- B. Liquidated Damages – The Contract contains a provision requiring the payment of Liquidated Damages to the Participant in the event that the Selected Offeror fails to complete its work within the prescribed and agreed to time limits contained in the Contract. Such damages are intended to compensate the Participant for, among other things, any lost incentive monies resulting from a delay that is the fault of the Selected Offeror and any additional cost to the Participant charged by the Utility, in the event the

Utility elects to install disconnects pursuant to the terms of the Purchase and/or Operating Contracts with the Participant. It is the responsibility of the Participant to ensure the LED fixtures and controls are delivered in a timely manner and so as to not delay the Selected Offeror's work schedule. The Selected Offeror is responsible to secure any other required materials such as wiring or mast arms in a timely fashion. Any such Liquidated Damages imposed shall be deducted from any amounts due the Selected Offeror. Any repairs to mast arms or other in-place equipment approved by the Participant will be done following the installation of LEDs on all other locations and shall not be included as part of the time requirement except such work will be done in an expeditious manner.

12.3 Compensation

The Selected Offeror's compensation shall be determined according to the following provisions:

- A. The maximum fee for all Selected Offeror and sub-contractor services and expenses shall not exceed the amounts set forth in the Contract. Except for services for which compensation is designated in the Contract to be on a time and materials basis, all amounts listed in the Contract are stipulated sums. The maximum Selected Offeror fee shall be all-inclusive. In no event shall the Participant be liable for additional charges such as interest, penalties, attorney's fees or any other expenses incurred by the Selected Offeror, nor costs such as travel, telephone, or duplication expenses except as may be agreed to by the Participant. The Participant may at its sole discretion authorize a monthly retainer to be paid to the Selected Offeror in exchange for certain considerations of responsiveness or other service deemed of value to the Participant. Such retainer would apply for a time and materials contract for communities that have completed the conversion of their system to LED lights, as more specifically set forth in the applicable Contract.
- B. Payments to the Selected Offeror for services performed in accordance with the Contract will be made in accordance with the Participant's ordinary payment procedures. Payments will be made directly by the Participant as specified in the Contract for work done in or for the Participant's jurisdiction.
- C. Payments under the Contract will be made only to the Selected Offeror. The Selected Offeror shall be responsible for the compensation of any of its approved sub-contractors.
- D. The Selected Offeror shall not be compensated for any services not included in the Contract scope of work, such as additional work that should have been anticipated by the Selected Offeror in the preparation of its Proposal, as reasonably determined by the Participant, or any services made necessary by the fault or negligence of the Selected Offeror or any of its sub-contractors.
- E. The Town shall not incur any charges associated with Proposal preparation, nor will it be obligated to enter into any Contract solely based on this Request for Proposals.

12.4 Insurance and Liability

- A. To the fullest extent permitted by law, the Selected Offeror shall be responsible for, and shall indemnify, defend and hold the Participant harmless from, all liability, lawsuits, attorneys' fees, costs, judgments or claims of any type whatsoever resulting from bodily injury or damage to property arising from the Selected Offeror's Contract with the Participant or work performed in response to this Request for Proposals, including without limitation to utilities operations in connection with this Contract causing damage to any person or property including public property, private property and the utilities collocated on the poles supporting the light fixtures.
- B. The insurance requirements to be satisfied by the Selected Offeror shall include all those required of the Participant under the Utility Agreements and Tariffs, and in addition the Selected Offeror must maintain the types and amounts of insurance required by the Contract between the Selected Offeror and the Participant. For each policy of liability insurance held by the Selected Offeror, other than employer's liability under worker's compensation, the Participant and, to the extent required by the Utility Agreements and Tariffs, the Utility, and the Utility's corporate parent, affiliates and subsidiaries and any Joint Owners shall be named as Additional Insureds.
- C. Each Offeror must submit proof of insurance with their Proposal in the Qualifications Section or a statement from a licensed broker certifying their ability to obtain such insurance if awarded the Contract. Once selected, an Offeror will be required to provide proof of such insurance within 10 days of contract award as a condition to contract execution.

12.5 Compliance with Law and Regulations

Under the Contract awarded, it is the Selected Offeror's responsibility that the Contract be conducted, and that all services and other work performed by the Selected Offeror under the Contract be performed, so as to comply with all applicable federal, state and municipal laws, regulations, codes, and ordinances including, but not limited to, prevailing wage, apprenticeships, local preference, and Minority Business Enterprise (MBE)/Women's Business Enterprise (WBE) goals as applicable.

12.6 Termination of Contract

In addition to the terms contained elsewhere in this RFP, the Contract between a Participant and a Selected Offeror may be terminated for cause or for convenience as more specifically provided in the form of Contract.

12.7 Equal Employment Opportunity

In connection with the performance of work under the Contract awarded, the Selected Offeror shall not discriminate against any employee, sub-contractor or applicant for employment because of race, color, religion, creed, national origin, ancestry, gender, age or handicap. The Selected Offeror

shall post in conspicuous places, available for employees and applicants for employment, notices appropriate and required under the laws of the State of New York and the United States, setting forth the provisions of the Fair Employment Practices Law of the State or municipality. The Selected Offeror shall comply with all applicable laws and regulations pertaining to non-discrimination, equal opportunity and affirmative action, including without limitation executive orders and rules and regulations of federal and state agencies of competent jurisdiction.

12.8 Certifications by the Selected Offeror

By execution of a Contract with the Participant, the Selected Offeror certifies:

- A. The Selected Offeror has not given, offered or agreed to give any person, corporation or other entity any gift, contribution or offer of employment as an inducement for, or in connection with, the award of the Contract.
- B. No sub-contractor to the Selected Offeror has given, offered or agreed to give any gift, contribution or offer of employment to the Selected Offeror or to any other person, corporation, or entity as an inducement for, or in connection with, the award to the sub-contractor of a sub-contract by the Selected Offeror.
- C. No person, corporation or other entity, other than a bona fide full time employee of the Selected Offeror, has been retained or hired by the Selected Offeror to solicit for or in any way assist the Selected Offeror in obtaining the Contract upon an agreement or understanding that such person, corporation or other entity be paid a fee or other consideration contingent upon the award of the Contract to the Selected Offeror.
- D. The Selected Offeror will comply with all applicable requirements of the laws of the State of New York, relating to municipal public works contracts, including all applicable provisions of its public procurement laws.

12.9 Prevailing Wages

Prevailing wage rates under New York State Labor Law apply to any Contract awarded by a Participant. See “Exhibit G” to the Form of Contract attached to this RFP regarding the determination issued for the Town of Red Hook. Each Participant will request a determination prior to its contract award, and no pricing adjustment will be permitted in connection with any participating differential for any contract within Dutchess County or Ulster County. For a Participant located in another county, pricing adjustment may be permitted to the extent reasonably determined by the Participant at the request of the Selected Offeror based on the actual differential between the then applicable schedule for the Town of Red Hook contract versus the then applicable Participant schedule.

12.10 Waste Disposal

A Selected Offeror must ensure all waste materials, including lamps (including incandescent, HPS, mercury vapor, and LED) and ballasts (including magnetic PCB-containing, magnetic non-PCB containing and electronic ballasts) among other material, generated from the replacement and

maintenance program are properly disposed of in accordance with all applicable local, state and federal laws and regulations. Offerors must indicate how they will store, label and dispose of hazardous materials and what firm(s) they use for this purpose. The Selected Offeror must supply copies of all disposal documentation to the Participant and retain copies for the required period of time under the applicable laws.

12.11 Bid Bond / Payment Bond / Performance Bond

A Bid Bond in the amount of five percent (5%) of the Comparative Proposal Price (all Participants in the aggregate) must be submitted with each Offeror's Proposal. The Selected Offeror(s) will be required to post a 100% Payment Bond and a 100% Performance Bond (based on total comparative proposal price with respect to the applicable Participant) at the time of execution of the Contract and prior to the commencement of work in the Participant jurisdiction. The Bid Bond for this RFP will be returned upon the earlier of (i) execution by the Selected Offeror of a Contract with the Town of Red Hook in compliance with all requirements of this RFP including the provision of required Payment and Performance Bonds for the Town of Red Hook and required insurance, or (ii) if no contract award has been made within 150 days of the proposal due date, upon request of the Selected Offeror thereafter.

12.12 Other Terms

Any work that requires OSHA training or compliance must be performed consistent with any OSHA requirements. The Utility requires all who perform work to be "Qualified", as that term is defined in the Utility Agreements and Tariffs and attached to this document.

12.13 Taxes

By execution of a Contract with the Participant, the Selected Offeror certifies under the penalties of perjury that it has complied fully with all laws of the State of New York relating to taxes, reporting of employees and contractors, withholding and remitting of child support, filed all state tax returns and paid all state and local taxes required under law.

12.14 Conflict of Interest

By execution of a Contract with the Participant, the Selected Offeror acknowledges that the Participant is a municipal corporation organized and existing under the laws of the State of New York, and agrees, as circumstances require, to take actions and to forbear from taking actions so as to be in compliance at all times with obligations of the Selected Offeror based on said laws.

12.15 Freedom of Information Law

All proposals submitted in response to this RFP may be disclosed at the discretion of the Town in accordance with the standards specified in the Freedom of Information Law, Article 6 of the Public Officers Law of the State of New York ("FOIL"). An Offeror may provide in writing, at the time of its submission, a detailed description of the specific information contained in its submission, which it has determined is a trade secret and which, if disclosed, would cause substantial injury to such

organization's competitive position, and including the rationale for such position. Such request must be in the form of a separate letter; the proposer may not mark all pages of its proposal as "Confidential." Offeror's characterization shall not be determinative, but will be considered by the Town or any Participant when evaluating the applicability of any exemptions in response to a FOIL request. However, the Town assumes no responsibility for any disclosure or use of data submitted.

12.16 Unbalanced Proposals

The Town reserves the right to reject any proposal that contains unbalanced pricing. Such determination shall be at the sole discretion of the Town.

Important Notice to Offerors

In submitting and signing a Proposal, the Offeror understands that the Town reserves the right to reject any and all Proposals or to waive any informality in the submitted Proposal documents. The Town may also reject any Proposal that has unit prices, which in the opinion of the Town are obviously unbalanced or are designed to skew the results. The Offerors are required to calculate the value of each item taking into account the prevailing wage laws, reasonable cost of materials and equipment, profit, and overhead to perform the work described. If, in the opinion of the Town, the prices offered are unreasonable or obviously unbalanced, the Town may reject such Proposal.

SECTION 13: Proposal Price

The proposal prices are to include and cover the furnishing of all materials (except LED fixtures, fuses and photocells for LED fixtures and labels), equipment, personnel and overhead necessary to perform the work described in Sections 2 and 3 of this RFP. The undersigned Offeror proposes that in the event this Proposal is found to be acceptable to the Town and a Contract award is made, the Offeror assures that all work will be performed in the specified manner and under the conditions specified at the prices listed below.

All Proposals are to be evaluated based on the assumed conversion of 2,868 cobra head street lights in the aggregate for the initial Participants and follow-on maintenance of the street lights. The Participants reserve the right to make additions or subtractions from the count as may be needed to ensure its accuracy. See detailed list at Appendix B.

PRICE SHEET: See Appendix A

Offerors should note the comparative Proposal price is the basis for identifying the lowest Proposal price, not the basis for compensation. The Town reserves the right to adjust quantities for all qualified Offerors if the Town in consultation with the selection committee determines such adjustment would more accurately reflect expected quantities. The amount of extra work and number of emergency responses are estimates only. Offerors are bound by their Proposal prices for the term of the Contract, including optional extensions. Extra work will be on an as needed basis and may be more or less than the estimated amount used for Proposal comparison. Every effort has been made to use reasonable estimates of expected quantities for each item.

[Remainder of page intentionally left blank.]

REQUEST FOR PROPOSAL SIGNATURE PAGE

TO: TOWN OF RED HOOK
2340 SOUTH BROADWAY
RED HOOK, NY, 12571
ATTENTION: TOWN CLERK

THE UNDERSIGNED, having a principal place of business at the Notice Address shown below, proposes to furnish and deliver to the TOWN OF RED HOOK, and to any other Participant, the services described in the Request for Proposals entitled "Initial Maintenance and Energy Efficiency Conversion And Follow-up Warranty and Maintenance Services for Municipal Street Lighting System (Mid-Hudson Street Light Consortium Project)" and has authority to execute all documents associated with this Request for Proposals.

THE UNDERSIGNED HEREBY ACKNOWLEDGES RECEIPT OF THE FOLLOWING ADDENDA TO THE RFP: _____.

THE FOLLOWING ARE ATTACHED TO AND MADE A PART OF THIS RESPONSE:

- QUALIFICATIONS STATEMENT
- TECHNICAL PROPOSAL
- NON-COLLUSION CERTIFICATE
- CONFLICT OF INTEREST STATEMENT
- TAX COMPLIANCE CERTIFICATION
- PRICING SHEETS (SEPARATELY SEALED)

DATED: _____

FIRM NAME OF OFFEROR

BY: _____
SIGNATURE OF AUTHORIZED SIGNER

TYPE NAME OF AUTHORIZED SIGNER

TITLE

TELEPHONE NUMBER

COMPANY NOTICE ADDRESS: _____

ADDRESS: _____

TELEPHONE #: _____

FAX #: _____

TITLE: _____

RESIDENCE: _____

IF COMPANY IS A PARTNERSHIP:

FULL NAME AND RESIDENCE OF EACH PARTNER:

IF COMPANY IS A CORPORATION:

THE CORPORATE NAME IS: _____

THE CORPORATION IS ORGANIZED UNDER THE LAWS OF: _____

THE PRESIDENT IS: _____

THE TREASURER IS: _____

THE CLERK/SECRETARY IS: _____

NAME OF CORPORATION THAT WILL APPEAR ON A POTENTIAL CONTRACTUAL AGREEMENT IF DIFFERS FROM ABOVE: _____

NAME AND TITLE OF PERSON WHO WILL BE RESPONSIBLE FOR THE SIGNING OF A POTENTIAL CONTRACTUAL AGREEMENT IF DIFFERS FROM ABOVE:

NAME: _____

TITLE: _____

NAME OF CLERK/SECRETARY WHO WILL ALSO BE SIGNING FOR A POTENTIAL CONTRACTUAL AGREEMENT IF DIFFERS FROM ABOVE: _____

Request for Proposal Signature Page

APPENDIX A – REQUIRED RFP FORMS

Initial Maintenance and Energy Efficiency Conversion and
 Follow-up Warranty and Maintenance Services for
 Municipal Street Lighting System
 (Mid-Hudson Street Light Consortium Project)
 (TOWN OF RED HOOK, New York as Administrative Participant)

PRICE SHEET

The proposal prices are to include and cover the furnishing of all materials (except LED fixtures, fuses and photocells for LED fixtures and labels), equipment, personnel and overhead necessary to perform the work described in Sections 2 (Required Services) and 3 (Special Instructions to Offerors) of the RFP. The undersigned Offeror proposes that in the event this Proposal is found to be acceptable to the Town and a Contract award is made, the Offeror assures that all work will be performed in the specified manner and under the conditions specified at the prices listed below.

All Proposals are to be evaluated based on the assumed conversion of approximately 2,868 cobra head street lights and follow- on maintenance of the street lights. The Participants reserve the right to make additions or subtractions from the count as may be needed to ensure its accuracy. See detailed list at Appendix B.

A1) Energy Efficiency Improvements. Offeror must provide a price to complete the energy efficiency improvements to the system by removing the existing fixture and installing LED fixtures and controls supplied by the Participant. Such price will include labor and miscellaneous minor materials to remove the existing cobra head fixture and install a replacement LED cobra head style lamp using similar mounting technology on existing mast arms, with a new long life supplied photo cell or intelligent control device using three prong contact twist lock (uses standard photo cell mounting but the supplied LEDs will be equipped with new ANSI 136.41 standard seven pin photocell receptacles compatible with standard photo controls and capable of supporting intelligent controls) and commissioning [none expected at this time] of any installed intelligent control device. All supplied LED fixtures will use a standard mounting system similar to HPS fixtures. All wiring or materials installed must meet Utility specifications or better and be installed following standard industry practice. The Participant may reject any equipment it deems to be inferior to the equipment currently used by the Utility Should any Offeror have a question if their equipment will be satisfactory, they should submit cut sheets in advance of their proposal submission for approval.

Item	Installed Price Each
Install LED Cobra heads (with fuse and supplied fixture and photocell)	
A1-1 Labor, no commissioning	ea \$ _____
A1-2 Labor, with commissioning	ea \$ _____

The Town reserves the right to change assumed quantities to adjust the final totals based on the known requirements.

B1) Emergency Response. Minimum response time is two hours. Assume one hour on scene. Provide both after hours and regular hour response pricing and define both. As an example, the initial response may be defined as consisting of only a standard 35 foot bucket with one repairman. Specialized equipment such as a crane or hoist truck is to be billed as an extra cost. The initial emergency response consists of rendering the scene safe and safeguarding any Participant equipment. Follow-on repairs are typically priced on a time and materials basis and are subject to separate procurement as may be determined by the Participant. Include weekend and holiday rates as well as overtime rates and when they are applicable.

B1-1) Regular Rate. Emergency response crew one qualified person plus 35-foot bucket truck for one hour plus one hour travel will be allowed. List total price for above crew and equipment for one hour on the ground and one hour total travel time (half hour each way). Total bid price assumed for this line item shall be the result of twelve (12) total requests during the initial 3 year term:

Regular Rate:\$ _____

B1-2) After Hours Rate. Emergency response crew one qualified person plus 35-foot bucket truck for one hour plus one hour travel will be allowed. List total price for above crew and equipment for one hour on the ground and one hour total travel time (half hour each way). Total bid price assumed for this line item shall be the result of twelve (12) total requests during the initial 3 year term:

After Hours Rate:\$ _____

Holiday Rate:\$ _____

C1) General Repairs and Extra Work. Provide pricing for each Class of employee & equipment and materials markup as apply to extra work/ General repairs. (See provided pricing sheet). The Town will assume sixty (90) hours of straight time work for an electrician or journeyman lineman for purposes of evaluation. If rates for these two classes are different then 45 hours will be assigned to each. Please note all work must be performed by a qualified Electrical Worker as per the Utility Agreements and Tariffs. An additional twelve (12) hours of overtime rates for the same class will be also added as well as the installation costs of [Quantity] six-foot brackets with supplied LED fixture with control/photocell as supplied by the Participant on an existing utility owned wooden pole, [Quantity] pole transfers of existing fixtures from an old pole to a new pole in connection with utility pole renewals/replacements. Pole replacements new poles, underground work or any other non- routine repair work will be considered extra work and will require a separate proposal and acceptance by the Participant.

Extra Work and Unit
Pricing

Item	Description	Price
C1-1	Journeyman Electrician/Lineman	\$ _____ per hour
C1-2	Journeyman Electrician/Lineman – Overtime	\$ _____ per hour
C1-3	Apprentice Electrician/Lineman	\$ _____ per hour
C1-4	Apprentice Electrician/Lineman – Overtime	\$ _____ per hour
C1-5	Lamp and Photocell Service Person	\$ _____ per hour

C1-6	Laborer	\$ _____ per hour
C1-7	Laborer – Overtime	\$ _____ per hour
C1-8	Truck (35 to 40 foot insulated bucket truck)	\$ _____ per hour
C1-9	Dump truck (2 to 3 yard)	\$ _____ per hour
C1-10	Crane (5 to 10 ton)	\$ _____ per hour
C1-11	Pole truck with pole auger	\$ _____ per hour
	Extra Work Note C1-12 through C1-19 apply to standard cobrahead fixtures only and include labor and materials.	All prices below are installed prices inclusive of labor and materials
C1-12	Service call replace 35 to 150 watt bulb and standard photocell labor plus material. HPS, MV, MH fixtures	\$ _____.
C1-13	Service call replace 250-400w watt bulb and standard photocell in a flood light labor plus material. HPS, MV, MH fixtures and flood lights	\$ _____.
C1-14	Service call to replace HPS starter (all Wattages)	\$ _____.
C1-15	Service call to replace HID ballast (all Wattages, Voltages, types)	\$ _____.
C1-16	Fuse (street light KTK) all fixtures (replace burned out fuse)	\$ _____ each
C1-17	Replace Cobra lens (dish or flat lens)	\$ _____ . each
C1-18	Service call to replace HPS fixture including the fixture and photocell 50-150 Watt HPS	\$ _____ . each
C1-19	Service call to replace HPS fixture including the fixture and photocell 250 Watt HPS	\$ _____ . each
	Prices below are installed prices including materials and labor- mast arms are 2 inch galvanized heavy duty mast arms.	
C1-20	3 foot mast arm w/hardware w/o fixture	\$ _____.
C1-21	4 foot mast arm w/hardware w/o fixture	\$ _____.
C1-22	6 foot mast arm w/hardware w/o fixture	\$ _____.
C1-23	8 foot mast arm w/hardware w/o fixture	\$ _____.
C1-24	10 foot mast arm w/hardware w/o fixture	\$ _____.
C1-25	12 foot mast arm w/hardware w/o fixture	\$ _____.
C1-26	Price add to C1-20 through C1-25to include install supplied Fixture	

C1-27	Install supplied fixture on existing mast arm single call out-warranty replacement	\$ _____.
C1-28	Service call replace failed fixture/control w/commissioning Warranty Labor only	\$ _____.

C1-29	Service call replace fixture/photocell w/o commissioning Warranty replacement	\$_____.
C1-30	Hourly Electrician labor rate with Bucket truck to install ancillary equipment (less than 15 lbs) on mast arm.	\$_____.
C1-31	Complete installation 6 ft. mast arm with wiring and supplied LED fixture and Control device on existing utility pole with commissioning. (New Install where there is no light currently. Provide sufficient pigtail for Utility to connect to secondary line.)	\$_____.
C1-32	Complete installation 6 ft. mast arm with internal wiring and supplied LED fixture and Control device on existing utility pole w/o commissioning. New install where no light currently exists. Provide sufficient Pigtail on power side for Utility to make connection to secondary.	\$_____.
C1-33	Service call to replace failed photocell/control device with commissioning	\$_____.
C1-34	Rewire fixture internally or change internal fixture setting	_____ each
C1-35	Replace photocell receptacle with approved ANSI 136.41 seven pin receptacle. Includes providing receptacle.	\$_____ each
C1-36	Install 35 ft aluminum pole of a quality as good or better than the Utility specifications on existing foundation (Assume foundation is serviceable) with six foot mast arm and 150 watt HPS cobrahead cutoff fixture or supplied LED	\$_____.
C1-37	Transfer existing mast arm with fixture from old pole to replacement pole in connection with utility company pole replacement.	_____ each
C1-38	Remove broken non-utility wooden pole (assume approximately one to two feet of the old pole is left above ground as from a knockdown) and install new 35 foot wooden pole with standard six foot bracket and supplied LED fixture. Dispose of old pole.	\$_____ each
C1-39	Labor to rewire defective mast arm wires and reconnect light fixture. Complete cost for labor, travel and equipment. Wire to be billed based on per foot price next item below. Price for this line does not include wire price.	\$_____ each
C1-40	Replace defective mast arm wires with appropriately rated wiring for up to 250 watt fixtures. Price is wire only.	\$_____ per foot
C1-41	Install approved Fuse holder and Fuse in connection with service call. Includes materials	\$_____

C1-42	Service call price-cost to respond to a service call and trouble shoot the light with no work required at the scene	\$ _____ _each
C1-43	Remove existing six foot or shorter mast arm from Utility owned pole (discontinue service) and dispose or salvage equipment as directed.	\$ _____ _each
C1-44	Standard Material Markup	_____ %
C1-45	Per unit labor Deduct from A1 if fuse is not required.	
C1-46	Alternate: See Sec. 3.2A; Fixed Price for Pre-Installation Maintenance, per pole per month	\$ _____
C1-47	Alternate; See Sec. 2.2 Record GPS Data for Installations, per pole	\$ _____
C1-48	Alternate, See Sec. 3.1(F), Intelligent Controls	\$ _____

D1.) Per Light Per Month Fixed Price Option (Pre-conversion only, see Section 3.2.A) Routine On-Call Maintenance Component description. This is an optional price for the routine pre-conversion repairs of existing fixtures and includes repair replacement of bulbs, photocells, starters, ballasts, replacement of entire failed cobra-head fixtures, tree trimming, cleaning, replacement lenses, fuses when required, replacement wiring within a mast arm, and the installation of a fuse when required by the attachment/operating agreement with the serving utility. It does not include the globes for decorative lamps or lenses of decorative lamps, failed mast arms, replacement hand hole covers, foundations, poles, decorative fixtures (except bulbs, internal wiring, photocells and ballasts are included) underground service, underground conduit, storm damage, vehicular or other accidental damage or vandalism. Provide a fixed price per light per month for the system maintenance. Such price is to be paid monthly and is fixed regardless of the actual number of repairs. Work not included will be quoted separately using the applicable labor, equipment and materials markup provided in C1-1 to C1-48 above as applicable for work not included as defined in this paragraph. All other requirements such as a call center, reporting, apply.

Fixed price per light per month for repairs as described above \$ _____

PRICING ADJUSTMENT FOR OPTIONAL 2 YEAR EXTENSION:

Selected Offeror must honor pricing shown above provided that a COL adjustment may be made for extension in accordance with the following formula, but only if advance notice is provided to the Participant not later than July 1 immediately prior to the effective date of each extension year, which notice includes new adjusted pricing sheets conforming to the permitted adjustment as follows. The COL adjustment is computed as the original contract unit price times 1.X, where X equals the percentage difference, if any, between the CPI-U (All Items) for the Northeast Region for the January immediately prior to the execution of the original contract, and the CPI-U (All Items) for the Northeast Region for the January immediately prior to the effective date of extension.

For example (data assumed for illustration purposes only)

Assume an Initial contract signed May 1, 2013 and an extension effective May 1, 2016.
 CPI-U (all Items) for January 2013 is 245.5. CPI-U (all items) for January 2016 is 252.
 $252-245.5=6.5$; $6.5/245.5=-0.0264$; adjustment is unit price times 1.0264.

TOTAL COMPARATIVE PROPOSAL PRICE COMPONENTS

The following section uses the above unit pricing to determine a total comparative price for the bid evaluation (based on the aggregate estimated Participant inventory). Unit prices are multiplied by estimated work amounts and then the result is totaled to complete the Total Comparative Proposal price.

Proposal Summary: Refer to description/pricing above

Totals for each Item: Note the quantities listed are for evaluation purposes and are not a guarantee of work. They do reflect expected quantities in each year of service.

A1-1) Energy Efficiency upgrades

Price per Participant supplied LED fixture installed with supplied photocell and fuse (where applicable) no commissioning (**include this price in Total Comparative Price below**)

Price per fixture installed \$ _____ X [2,868] lights= \$ _____

B1-1) Emergency Response assume 12 times over three years

Regular rate per trip \$ _____ X Twelve times = \$ _____ (B1-1)

B1-2) Emergency Response assume 12 times over three years

After Hours Rate per trip \$ _____ X Twelve times= \$ _____

C1) GENERAL REPAIRS

C1-1 Rate/hour \$ _____ X 90 hours Total \$ _____ (C1-1)

C1-2 Overtime Rate/hour \$ _____ X 12 hours Total \$ _____ (C1-2)

C1-8 35 foot Insulated Bucket Truck Rate \$ _____ per/hr X 90 hrs
=\$ _____ (C1-8)

C1-13 Service call replace 250 watt bulb and standard photocell in a flood light labor plus material. HPS, MV, MH fixtures Per visit \$ _____ N/A

C1-27 Install new supplied LED fixture on existing Utility wood pole and existing mast arm \$ _____ X 30=\$ _____ (C1-27)

Total Comparative Proposal Price Components, continued

C1-29 Replace Defective photocell with supplied warranty replacement Labor only
\$ _____ ea X 30= \$ _____ (C1-29)

C1-35 Replace ANSI 136.41 seven pin photocell receptacle with replacement receptacle labor and materials only \$ _____ ea X 3= \$ _____ (C1-35)

C1-37 Transfer existing mast arm with fixture from old pole to new pole.
\$ _____ ea X 10= \$ _____ (C1-37)

C1-39 Labor to rewire defective mast arm wires and reconnect light fixture. Complete cost for labor, travel and equipment. Wire to be billed separately based on per foot price. Price for this line does not include wire price. \$ _____ ea.x10 = \$ _____ (C1-39)

Sum the following (C1-14 through C1-26, C1-28, C1-30, C1-31, C1-33, C1-34, C1-36, and C1-38) and multiply the result by two = \$ _____

Using the totals computed on the Total Comparative Price Components, sum them into a single final number and show that below.

TOTAL COMPARATIVE PROPOSAL PRICE \$ _____

DATED: _____

FIRM NAME OF OFFEROR

BY: _____
SIGNATURE OF AUTHORIZED SIGNER

TYPE NAME OF AUTHORIZED SIGNER

TITLE

TELEPHONE NUMBER

NON-COLLUSIVE BIDDING CERTIFICATE

In Connection With Proposal for the Following:

Initial Maintenance and Energy Efficiency Conversion And
Follow-up Warranty and Maintenance Services
for Municipal Street Lighting System
(Mid-Hudson Street Light Consortium Project)
(TOWN OF RED HOOK, New York as Administrative Participant)

STATEMENT ATTACHED TO AND FORMING A PART OF ALL BIDS RECEIVED BY THE TOWN OF RED HOOK AS ADMINISTRATIVE PARTICIPANT FOR THE MID-HUDSON STREET LIGHT CONSORTIUM.

By submission of this offer, each Offeror and each person signing on behalf of any Offeror certifies, and in the case of a joint offer, each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief:

(a) The prices in this offer have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other Offeror or with any competitor;

(b) Unless otherwise required by law, the prices which have been quoted in this offer have not been knowingly disclosed by the Offeror and will not knowingly be disclosed by the Offeror, directly or indirectly, to any Offeror or to any competitor prior to opening; and

(c) No attempt has been made or will be made by the Offeror to induce any other person, partnership or corporation to submit or not to submit an offer for the purpose of restricting competition.

Any bid or proposal made to any political subdivision of the State or any public department, agency or official thereof by a corporate Offeror for work or service performed or goods sold or to be sold, where competitive bidding is required by statute, rule, regulation or local law, and where such bid contains the foregoing certification, shall be deemed to have been authorized by the board of directors of the Offeror, and such authorization shall be deemed to include the signing and submission of the bid and the inclusion therein of this certificate as to non- collusion as the act and deed of the corporation.

This statement is so subscribed by Offeror by the person signing on behalf of Offeror and affirmed as true under penalties of perjury.

State of _____)
):ss
County of _____)

Company Name of Bidder: _____

Officer/partner/individual bidder’s signature: _____

Print name: _____ Title: _____

Sworn to before me this ____ day
of _____, 20__.

Notary Public

An offer shall not be considered for award nor shall any award be made where the foregoing certification has not been submitted; provided, however, that if in any case the Offeror cannot make the foregoing certification, the Offeror shall so state and shall furnish with the offer a signed statement which sets forth in detail the reasons therefore.

CONFLICT OF INTEREST STATEMENT

In Connection With Proposal for the Following:

Initial Maintenance and Energy Efficiency Conversion And
Follow-up Warranty and Maintenance Services
for Municipal Street Lighting System
(Mid-Hudson Street Light Consortium Project)
(TOWN OF RED HOOK, New York as Administrative Participant)

The Offeror hereby certifies that:

The Offeror has not given, offered, or agreed to give any gift, contribution or offer of employment as an inducement for, or in connection with, the award of a contract for these services. No consultant to, or, subcontractor for the Offeror has given, offered, or agreed to give any gift, contribution, or, offer of employment to the Offeror, or to any other person, corporation, or entity as an inducement for, or in connection with, the award to the consultant or subcontractor of a contract by the Offeror.

No person, corporation, or, other entity, other than a bona fide full time employee of the Offeror has been retained or hired to solicit for or in any other way assist the Offeror in obtaining the contract for services upon an agreement or understanding that such person, corporation, or entity be paid a fee or other compensation contingent upon the award of the contract to the Offeror.

Signature of individual submitting proposal

Printed Name of individual submitting proposal

Name of business

Address of business

TAX COMPLIANCE
CERTIFICATION

In Connection With Proposal for the
Following:

Initial Maintenance and Energy Efficiency Conversion
And
Follow-up Warranty and Maintenance
Services
for Municipal Street Lighting
System
(Mid-Hudson Street Light Consortium Project)
(TOWN OF RED HOOK, New York as Administrative Participant)

I certify under the penalties of perjury that, to the best of my knowledge and belief, I am in compliance with all laws of the State of New York relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

Signed under the penalties of
perjury.

Signature of individual submitting proposal

Printed Name of individual submitting proposal

Name of business

Federal EIN

APPENDIX B TO RFP

LIST OF STREET LIGHTS/INVENTORY

Please see attachment labeled, "Appendix B"

APPENDIX C TO RFP

CONSORTIUM MEMBERS AND ESTIMATED REQUIREMENTS

Hillsdale, Town of	59
Hurley, Town of	66
Marbletown, Town of	71
New Paltz, Town of	104
New Paltz, Village of	292
Pelham, Village of	578
Philmont, Village of	138
Rhinebeck, Town of	102
Rhinebeck, Village of	246
Red Hook, Town of, and Bard College	272
Red Hook, Village of	272
Rosendale, Town of	168
Tivoli, Village of	100
Ulster, Town of	364

POTENTIAL ADDITIONAL PARTICIPANTS

Goshen	406
Warwick, Town	336
Warwick, Village	460
Piermont, Village	182

APPENDIX D TO RFP

FORM OF CONTRACT WITH MUNICIPALITY

CONTRACT BETWEEN
THE TOWN OF RED HOOK, DUTCHESS COUNTY, NEW YORK AND

[SELECTED OFFEROR]
FOR
Initial Maintenance and Energy Efficiency Conversion
And
Follow-up Warranty and Maintenance Services
for Municipal Street Lighting System
(Mid-Hudson Street Lighting Consortium Project)

THIS CONTRACT ("Contract") made effective _____,
20___, by and between the TOWN OF RED HOOK, NEW YORK, a municipal corporation, with
offices at 7340 South Broadway, Red Hook, NY 12571 (hereinafter called the "MUNICIPALITY"),
and _____, a _____, with offices at
(hereinafter called the "CONTRACTOR") (the MUNICIPALITY and the CONTRACTOR shall be
referred to herein collectively as the "PARTIES" and each a "PARTY").

RECITALS:

WHEREAS, the MUNICIPALITY desires to retain the CONTRACTOR to provide certain services for
the MUNICIPALITY as described, below, and the CONTRACTOR is willing to accept such
engagement, all on the terms hereinafter set forth;

NOW, THEREFORE, in consideration of the mutual covenants hereinafter set forth, and other
good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged,
the parties agree as follows:

ARTICLE 1 – THE CONTRACT DOCUMENTS

- 1.1. The Contract Documents consist of the this Contract between the MUNICIPALITY and
the CONTRACTOR, the scope of services provided in the Request for Proposals Initial
Maintenance and Energy Efficiency Conversion and Follow-up Warranty and
Maintenance Services for Municipal Street Lighting System dated _ (the "RFP"), a copy
of which is attached hereto as **Exhibit B-1**, CONTRACTOR's Proposal (the "Proposal"), a
copy of which is attached hereto as **Exhibit B-2**, the Pricing Schedule attached hereto as
Exhibit C, other documents listed in this Contract and modifications issued after
execution of the Contract.

- 1.2. In the event of a conflict between or among the terms of this Contract, the RFP and/or the Proposal, the documents shall govern in the following order of precedence:
 - (a) This Contract including Exhibits;
 - (b) The Utility Agreements and Tariffs;
 - (c) The RFP Scope;
 - (c) The Proposal; and
 - (d) The Pricing Schedule.

ARTICLE 2 - THE ENGAGEMENT OF THE CONTRACTOR

- 2.1 The MUNICIPALITY hereby engages the CONTRACTOR, and the CONTRACTOR hereby accepts the engagement, to perform the services for the MUNICIPALITY described in ARTICLE 3.
- 2.2 In the performance of any service under this Contract, the CONTRACTOR acts at all times as an independent contractor. There is no relationship of employment or agency between the MUNICIPALITY, on the one hand, and the CONTRACTOR on the other, and the MUNICIPALITY shall not have or exercise any control or direction over the method by which the CONTRACTOR performs its work or functions aside from such control or directions which are consistent with the independent contractor relationship contemplated in the Contract.

ARTICLE 3 - SERVICES OF THE CONTRACTOR

- 3.1. The CONTRACTOR will perform and provide the services (the "Work") described in Exhibit B hereof.
- 3.2. The CONTRACTOR shall report, and be responsible, to the MUNICIPALITY and its designee (if any) as set forth herein.
- 3.3. There shall be no amendment to the Scope of Services or Work provided for in the Contract Documents without the written approval of the MUNICIPALITY. The MUNICIPALITY shall be under no obligation to pay for any services performed by the CONTRACTOR which are not explicitly agreed to by the MUNICIPALITY in writing. The MUNICIPALITY hereby appoints the authorized officer executing this Agreement, or such other official as shall be designated in a resolution of the Municipality, as its designated representative with respect to this Contract and the CONTRACTOR acknowledges and agrees that only such designee has the authority to speak or act for the MUNICIPALITY in connection with this Contract. No increase in the authorized maximum amount for the work shall be authorized without prior written approval of the MUNICIPALITY's governing board.

- 3.4. The CONTRACTOR represents and warrants to the MUNICIPALITY that the CONTRACTOR (including all of its personnel, whether employees, agents or independent contractors) will be qualified and duly licensed (if necessary) to perform the services required by the Contract Documents and further agrees to perform services (either directly or through approved subcontractors) in a professional manner adhering to a reasonable standard of care and in accordance with all applicable local, state or federal ordinances, laws, rules and regulations. The CONTRACTOR will obtain any and all permits, bonds and other items required for the proper and legal performance of the Work.
- 3.5. The CONTRACTOR represents and warrants to the MUNICIPALITY that it is not a party to any contract or understanding which would in any way restrict or prohibit it from undertaking or performing its obligations hereunder in accordance with the terms and conditions of the Contract Documents.
- 3.6. All written materials and any other documents (whether in the form of “hard” copies, graphics, magnetic media or otherwise) which are produced by the CONTRACTOR pursuant to this Contract shall be deemed to be “work for hire” and shall be and become the property of the MUNICIPALITY under applicable law or, to the extent that the “work for hire” doctrine does not apply, CONTRACTOR hereby grants to the MUNICIPALITY a perpetual, royalty-free exclusive license in such items. The MUNICIPALITY acknowledges that such materials are being prepared with respect to the specific project contemplated hereby and that any reuse of such materials by the MUNICIPALITY in connection with any other project shall be at the MUNICIPALITY’s sole risk unless otherwise agreed to by the CONTRACTOR in writing.
- 3.7. All crews servicing lights in the MUNICIPALITY must be fully certified to perform the work being performed. Substitutions will not be permitted. Failure to comply will be cause for immediate termination of the Contract.
- 3.8. Additional Services: If the MUNICIPALITY requests the CONTRACTOR to perform additional services beyond the scope of services specified above, the CONTRACTOR shall perform such additional services only upon obtaining written authorization from the MUNICIPALITY including a written authorization as to the method and amount of compensation for such additional services.
- 3.9. Utility Agreements and Tariffs. The acquisition of existing lighting facilities and installation and maintenance to be carried out under this Contract is subject to the terms of a Purchase and Sale Agreement of Street Lighting Facilities (“Purchase Agreement”) by and between the Participant and the applicable Utility identified at Exhibit H, and an Operating Agreement of Street lighting Facilities by and between the Participant and the Utility (“Operating Contract”). The CONTRACTOR will be responsible for complying with all requirements of the Purchase Agreement, the Operating Contract, and the NYS Public Service Commission Tariff referred to at Exhibit H applicable to the conduct of the Work (collectively the “Utility Agreements and Tariffs”)

3.10. Subcontracts; Qualified Personnel

- (a) Unless clearly stated in Exhibit E, none of the services to be provided by the Selected Offeror pursuant to the Contract shall be subcontracted or delegated to any other organization, association, individual, corporation, partnership or other such entity without the prior written consent of the MUNICIPALITY.
- (b) The CONTRACTOR and its personnel shall perform 100 percent of all the work under the Contract, except as may be required under emergency circumstances or as otherwise approved by the MUNICIPALITY, measured either in value of services rendered or in CONTRACTOR's time spent on such services.
- (c) The MUNICIPALITY may require the CONTRACTOR to exclude any of the CONTRACTOR's personnel and/or approved sub-contractors from any further work under the Contract if, in the MUNICIPALITY's sole opinion, (i) the individual or subcontractor is not qualified as described in this contract, or does not perform at the applicable skill level, as described in the this contract, (ii) the individual does not deliver work which conforms to the performance standards stated herein, or (iii) personality conflicts between the individual or subcontractor and MUNICIPALITY personnel hinder effective progress on the work of the project or assignment for which the individual is responsible. Employees of the CONTRACTOR are expected to exhibit the utmost courtesy when dealing with the public and or MUNICIPALITY personnel. Repeated complaints may result in the request for relief or reassignment of the offending individual and or termination of the Contract.
- (d) No subcontracts or delegation shall relieve or discharge the CONTRACTOR from any obligation or liability under the Contract except as specifically agreed to in writing by the MUNICIPALITY. The CONTRACTOR shall be as fully responsible to the MUNICIPALITY for the acts and omissions of its sub-contractors and of persons either directly or indirectly employed by them, as it is for the acts and omissions of persons directly or indirectly employed by the CONTRACTOR.

3.11. Waste Disposal. During all phases of the Contract, CONTRACTOR shall ensure all waste materials, including lamps (including incandescent, HPS, mercury vapor, and LED) and ballasts (including magnetic PCB-containing, magnetic non-PCB containing and electronic ballasts) among other material, generated from the replacement and maintenance program are properly disposed of in accordance with all applicable local, state and federal laws and regulations. CONTRACTOR shall supply copies of all disposal documentation to the MUNICIPALITY and retain copies for the required period of time under the applicable laws.

3.12. Cooperation and Timely Completion. The CONTRACTOR agrees to adhere to the time requirements and schedules included herein, to perform its services as expeditiously as is consistent with the standard of professional skill and care required hereby, and to perform its services in coordination with the operations of the Participant related to this Contract and with any party engaged by the Participant in connection with the Contract and with the Utility and Joint Owners or any of their agents or contractors to the extent required under the Utility Agreements and Tariffs. It shall be the obligation of the CONTRACTOR to request any information necessary for the performance of the CONTRACTOR'S services.

ARTICLE 4 - PERIOD OF SERVICES

- 4.1. The term of this Contract shall be as set forth at Exhibit D.
- 4.2. The CONTRACTOR shall proceed with the Work promptly after receiving authorization to proceed and will diligently and faithfully prosecute the Work to completion in accordance with the provisions hereof. In any event, the Work shall be completed not later than the agreed on dates and for on call work the response times as required by the Scope of Services at Exhibit B. The CONTRACTOR acknowledges that time is of the essence of this Contract.
- 4.3. If the CONTRACTOR is delayed in the performance of any of its obligations under this Contract by the occurrence of an event which could not reasonably be anticipated or avoided or is otherwise beyond CONTRACTOR'S control such as fire or other casualty, abnormal adverse weather conditions, failure of the MUNICIPALITY to provide the LED fixtures and or control devices, failure of the Utility to provide power to the Town's fixtures, or acts of God (collectively, "Unavoidable Events" and each an "Unavoidable Event") which materially and adversely affect CONTRACTOR'S ability to perform the Work, then the time for the CONTRACTOR to perform the Work shall be extended for such time as the MUNICIPALITY shall reasonably determine is necessary to permit the CONTRACTOR to perform in light of the effects of the Unavoidable Event.
- 4.4. If an Unavoidable Event occurs which makes the performance of the Contract impossible without the expenditure of additional MUNICIPALITY funds, the MUNICIPALITY may, at its option, elect to terminate this Contract upon thirty (30) days written notice.
- 4.5. All work required to convert the MUNICIPALITY'S HID street lights to LED must be completed no later than six (6) weeks from the date that the MUNICIPALITY issues to CONTRACTOR a notice to proceed, subject only to Unavoidable Events. CONTRACTOR acknowledges and agrees that the MUNICIPALITY will incur substantial damages if the foregoing conversion work is not completed within the time limits set forth herein, which damages will be difficult if not impossible to ascertain. If the conversion work has not been completed within six (6) weeks from the MUNICIPALITY's issuance of a notice to proceed, as adjusted pursuant to this Section and Section 4.3, CONTRACTOR shall pay the MUNICIPALITY Liquidated Damages in the Sum of \$100 per day until the conversion work is complete. The Liquidated Damages shall be deducted from payments owed by the MUNICIPALITY to CONTRACTOR.

ARTICLE 5 - PAYMENTS TO THE CONTRACTOR

- 5.1. The compensation to due to the CONTRACTOR shall be paid according to the Pricing Schedule annexed hereto at **Exhibit C**.
- 5.2. The CONTRACTOR will bill the MUNICIPALITY for the construction/conversion phase at the completion of the Work unless otherwise provided on **Exhibit C**, with one or more invoices broken down to show the quantity of Work performed, categories and amount of reimbursable expenses (if any), and provide such supporting data as may be required by

the MUNICIPALITY. The CONTRATOR shall submit invoices for pre-conversion and post-conversion maintenance services rendered on a monthly basis. The CONTRACTOR's invoice shall include a description of services performed under the task or tasks in such form and detail and with such supporting data as the MUNICIPALITY may reasonably require showing the computational basis for all charges.

- 5.3. The MUNICIPALITY will pay the CONTRACTOR upon review and approval of such invoices by the MUNICIPALITY or its designee. Payments to CONTRACTOR for services performed in accordance with the Contract will be made in accordance with the MUNICIPALITY'S ordinary payment procedures. Payments will be made as specified in the Contract for work done at the direction of the MUNICIPALITY pursuant to the Contract. Payments under the Contract will be made only to the CONTRACTOR. The CONTRACTOR shall be responsible for the compensation of any of its approved sub-contractors.
- 5.4. The CONTRACTOR and its consultants shall not be compensated for any services involved in preparing changes that are required for additional work that should have been anticipated by the CONTRACTOR, as reasonably determined by the MUNICIPALITY.
- 5.5. CONTRACTOR understands and agrees that the MUNICIPALITY shall have no liability under this Contract to the CONTRACTOR or to anyone else beyond funds appropriated and available for this Contract. In the event that funding for this Contract shall not be appropriated by the MUNICIPALITY in any fiscal year; the MUNICIPALITY will not be obligated to pay the amounts due beyond the end of the last funded fiscal year and no liability on account thereof shall be incurred by the MUNICIPALITY beyond the amount of such monies.
- 5.6. Right to Audit and Records.
 - (a) The CONTRACTOR shall maintain accurate and complete records detailing the back-up documentation required by this Agreement, and shall maintain such documents for a period of six years from document generation and shall allow the MUNICIPALITY access thereto for inspection and photocopying at all reasonable times.
 - (b) All receipts and disbursements are subject to audit by the MUNICIPALITY, and the CONTRATOR agrees to cooperate with any audit of this Agreement undertaken by the MUNICIPALITY or any entity with jurisdiction to audit the MUNICIPALITY, including without limitation the State Comptroller and any granting agency.

ARTICLE 6 DEFAULTS AND TERMINATION

6.1. DEFAULTS

- (a) If CONTRACTOR defaults in the observance or performance of any material term of this Contract, and such default continues for more than thirty (30) days after written notice of such default is received by the CONTRACTOR from the MUNICIPALITY, such MUNICIPALITY may take any action available at law or in equity to enforce the terms of this Contract, and may terminate this Contract upon

thirty (30) days written notice to the defaulting party as provided herein. If the default is not capable of being cured within thirty (30) days and the defaulting party has commenced cure within thirty (30) days and is diligently pursuing efforts to cure, such thirty (30) day period shall be extended for a reasonable period of time.

- (b) If either party is required to enforce the terms of this Agreement, the prevailing party will be entitled to recover its reasonable attorneys' fees and costs. No remedy herein conferred upon or reserved to the MUNICIPALITY is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute.
- (c) No delay or omission in exercising any remedy shall impair any such remedy or construed to be a waiver thereof. It shall not be necessary to give any notice other than as expressly required under this Agreement. In the event any provision contained in this Agreement should be breached and thereafter duly waived by the party or parties so empowered to act, such waiver shall be limited to the particular breach so waived and shall not be deemed to be a waiver of any other breach hereunder. No waiver, amendment, release or modification of this Agreement shall be established by conduct, custom or course of dealing.
- (d) If either party is prevented or delayed by Unavoidable Events from performing any part of this Agreement, such failure to perform shall not be deemed a breach of this Agreement. The CONTRACTOR shall not be responsible for damage to the lighting system caused by Force Majeure, provided that CONTRACTOR shall take such steps as are reasonably necessary to preserve and maintain the facilities under the circumstances.
- (e) The MUNICIPALITY's Right to Cure the CONTRACTOR's Defaults. If the Selected Offeror shall default or neglect to carry out any of its obligations under this Contract and shall fail within fifteen (15) days after receipt of written notice from the MUNICIPALITY to the CONTRACTOR to commence and continue correction of such default or neglect with diligence and promptness, the MUNICIPALITY may, without prejudice to any other remedy or right it may have, make good such deficiencies. In such case, the cost of correcting such deficiencies shall be paid by the CONTRACTOR to the MUNICIPALITY promptly after receipt of an invoice therefor.

6.2. Termination. The Contract may be terminated prior to the expiration of the term as follows.

- (a) Termination For Cause: If through any cause, one party shall fail to fulfill in a timely and proper manner, its obligations under this Contract, or if one party shall violate one of the covenants, contracts or stipulations of this Contract, the other party shall thereupon have the right to terminate this Contract hereunder for any breach which is not corrected within thirty (30) calendar days of notice of breach (or

shorter period if herein specified) from the other party by giving written notice of such termination.

- (b) Termination for Convenience: The MUNICIPALITY may postpone, suspend, abandon or terminate this Agreement at any time for any reason, and such action shall in no event be deemed a breach of contract upon submitting to the Selected Offeror thirty (30) days' prior written notice of its intention to terminate. Upon receipt of such notice, the CONTRACTOR shall immediately cease to incur expenses pursuant to this Contract unless otherwise directed in the termination notice. The CONTRACTOR shall promptly notify the MUNICIPALITY of costs incurred to date of termination and the MUNICIPALITY shall pay all such reasonable and supportable costs, which payment shall not exceed the unpaid balance due.

6.3. Following termination of this Contract, the parties shall be relieved of all further obligations hereunder except:

- (a) In the case of a termination other than by the MUNICIPALITY for cause, the MUNICIPALITY shall remain obligated to pay CONTRACTOR for the services performed by the CONTRACTOR in accordance with the terms of this Contract prior to the effective date of the notice of termination, such services to be verified by audit. The amount payable shall be computed based on time and materials if applicable or, if the portion of the work performed was subject to a specified sum, the amount payable will be computed pro rata based upon the percentage completed together with costs reasonably incurred by the CONTRACTOR with the MUNICIPALITY's consent in demobilizing, securing work areas and equipment, in the aggregate not to exceed the applicable specified sum. Other than as set forth in this Section 6.3(a), the MUNICIPALITY shall be responsible for no other amounts including, without limitation, claims for lost profits on work not performed.
- (b) In the event of termination of this Contract by the MUNICIPALITY for cause, the CONTRACTOR will not be entitled to receive further payment for services performed prior to the effective date of the notice of termination until the remaining Work is complete. If the cost to the MUNICIPALITY of completing the Work and obtaining the services that the CONTRACTOR is obligated to perform pursuant to the terms of this Contract (including compensation to the MUNICIPALITY's consultants and other damages incurred by the MUNICIPALITY and not expressly waived) exceed the costs that would have been incurred by the MUNICIPALITY if the CONTRACTOR had fulfilled its obligations under this Contract, the CONTRACTOR will pay the difference to the MUNICIPALITY. No termination shall affect or impair the right of the Municipality to recover damages occasioned by any default of the CONTRACTOR or to set off any damages against amounts otherwise owed to the CONTRACTOR.
- (c) CONTRACTOR's responsibility for Work performed prior to the date of expiration or earlier termination of this Contract for any cause, including its warranty obligations and CONTRACTOR'S indemnity obligations, shall survive such expiration or termination.

- (d) CONTRACTOR shall promptly deliver to the MUNICIPALITY all lighting equipment including inventory, all documents, working papers, drafts, studies, calculations, data, drawings, plans, specifications, and other tangible work product or materials, whether on paper or on electronic media, pertaining to the services performed under the Contract prior to the time of termination, and no amount shall be payable to the CONTRACTOR following termination for any reason prior to such delivery.
- (e) Any termination of the Contract shall not affect or impair the right of the MUNICIPALITY to recover damages occasioned by any default of the CONTRACTOR or to set off such damages against amounts otherwise owed to the CONTRACTOR.

ARTICLE 7 - INDEMNIFICATION AND INSURANCE

- 7.1. To the fullest extent permitted by law, CONTRACTOR shall defend, indemnify and hold harmless the MUNICIPALITY, its officers, agents, and employees from and against any and all claims, suits, damages, losses, costs and expenses (including, without limitation, legal fees and other expenses of litigation incurred in connection with any indemnified claim and/or incurred in any action to enforce the terms hereof) (collectively, a "Claim") arising out of or in connection with (i) the performance of the Work, (ii) this Contract and/or CONTRACTOR'S breach of any covenant, representation or warranty contained herein, and (iii) any act or omission of CONTRACTOR or CONTRACTOR'S employees, agents, subcontractors, or suppliers resulting in bodily injury, including death, or damage to property, including loss of use thereof . This indemnification shall survive the later to occur of the expiration or termination of this Contract.
- 7.2. In claims against any person or entity indemnified under Section 7.1 by an employee of the CONTRACTOR, a subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under Section 7.1 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the CONTRACTOR or a subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.
- 7.3. Before commencing work, the CONTRACTOR shall obtain and maintain, at its expense and from insurance companies of a Best Rating of A-/IX or better which are authorized to do business in the State of New York, insurance as set forth below. If the CONTRACTOR is permitted to sub-contract a material portion of the Work, or is otherwise identifying a third party to perform services for the MUNICIPALITY, the CONTRACTOR shall assure that such sub-contractor or other third party also has such insurance naming the MUNICIPALITY as additional insured.
 - (a) Workers' Compensation, covering the obligations of the CONTRACTOR in accordance with applicable Workers' Compensation or Benefits law.
 - (b) Commercial General Liability Insurance, including contractual liability (to specifically include coverage for the indemnification clause in Section 6.1 relating to bodily injury, death or property damage), products and completed operations liability (including XCU coverage), broad form property damage, personal and

advertising injury liability, all written on a CG0001 or equivalent occurrence form, with combined bodily injury and property damage limits of liability of no less than \$1,000,000 per occurrence, \$2,000,000 per project general aggregate, \$2,000,000 personal and advertising injury and \$2,000,000 products and completed operations liability with an aggregate limit per project.

- (c) Automobile Liability Insurance of not less than \$1 million combined single limit covering owned, hired and non-hired vehicle use.
 - (d) Umbrella/Excess Liability insurance on an occurrence basis with limits of not less than \$5,000,000 per occurrence in excess of the limits provided by the commercial general liability and automobile liability insurance. The coverage terms of the umbrella/excess insurance must be on a no less than follow form basis. The policy should be written on form CG 00 01 07 98 or its equivalent and shall not include any exclusions or limitations other than those incorporated in the standard ISO form.
 - (e) Such additional insurance as may be required to be carried by the CONTRACTOR by law.
 - (f) Such additional insurance as set forth in the RFP.
 - (g) Such additional insurance as is required under the terms of the Utility Agreements and Tariffs referred to at Exhibit H, including without limitation the requirement for the Contractor and any Subcontractor to provide indemnity and insurance for the benefit of to the Municipality, the Utility and any Joint Owner in the amounts, at the times, and from companies as required by the Utility Agreements and Tariffs including without limitation a requirement to name all such entities as additional insured.
- 7.4. CONTRACTOR shall maintain such insurance during the term of Contract and give the MUNICIPALITY and Utility and any Joint Owner thirty (30) days written notice of any change or cancellation of coverage. Each insurer providing policies hereunder shall waive its rights to subrogate claims against the MUNICIPALITY. The MUNICIPALITY will be added as an additional insured with respect to commercial general liability, auto liability insurance, umbrella/excess insurance, and such other insurance for which it may be appropriate and such endorsement shall be reflected on a Certificate of Insurance to be delivered to the MUNICIPALITY upon the execution of this Contract and at such times thereafter as the MUNICIPALITY may reasonably request.

ARTICLE 8 - GENERAL PROVISIONS

- 8.1. The primary point of contact for project reporting shall be *as set forth at Exhibit F*
- 8.2. Except as expressly provided herein, neither party may assign, transfer or otherwise dispose of this Contract or any of its rights hereunder or otherwise delegate any of its duties hereunder without the prior written consent of the other party, and any such attempted assignment or other disposition without such consent shall be null and void and of no force and effect.

- 8.3. Except as otherwise expressly provided in this Contract, any decision or action made by the MUNICIPALITY relating to this Contract, its operation, amendment or termination, shall be made by the Board, Committee or Authority of the MUNICIPALITY specified in the initial paragraph of this Contract, unless specifically authorized or delegated by a lawful vote of such body.
- 8.4. This Contract, including the Contract Documents incorporated by reference, constitutes the entire Contract of MUNICIPALITY and CONTRACTOR with respect to the matters set forth herein and shall supersede all prior negotiations, representations or Contracts, either written or oral. This Contract may not be changed, amended, modified or terms waived except by a writing signed by the MUNICIPALITY and the CONTRACTOR.
- 8.5. Any notices required or allowed under this Contract shall be sent by certified mail, return receipt requested as follows:

If to Municipality: [Title, Address]

With a copy to Municipality Attorney:
[Title, Address]

If to Contractor: At the address set forth on the execution page of this Contract.

- 8.6. **PIGGYBACKING.** This Contract is hereby made available for use on the same terms and conditions (excepting MUNICIPALITY-specific terms and conditions) by any municipal corporation in New York under N.Y. General Municipal Law § 103(16) for a period of not more than twelve (12) months from that date of this Contract. MUNICIPALITY has no obligation whatsoever with respect to any such piggybacking contracts.
- 8.7. **NON-DISCRIMINATION REQUIREMENTS.** To the extent required by Article 15 of the New York Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the CONTRACTOR will not discriminate against any employee or applicant for employment because of race, creed, color, sex (including gender identity or expression), national origin, sexual orientation, military status, age, disability, predisposing genetic characteristics, marital status or domestic violence victim status. Furthermore, in accordance with Section 220- e of the Labor Law, if this is a Contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this Contract shall be performed within the State of New York, CONTRACTOR agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Contract.

- 8.8. **WAGE AND HOUR REQUIREMENTS.** Neither CONTRACTOR's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in Article 8 of the New York Labor Law, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, CONTRACTOR and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, if this is a public work Contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with subdivision 3-a of this Section 220 of the Labor Law shall be a condition precedent to payment by the Municipality of any sums due and owing to any person for work done upon the project.
- 8.9. This Contract is governed by the laws of The State of New York and shall be construed in accordance therewith. The parties agree that exclusive jurisdiction for any action arising out of or relating to this Contract shall lie with the state and federal courts situated in the county in which the MUNICIPALITY is located and the parties hereby irrevocably waive, to the fullest extent permitted by law, any objection which they may now or hereafter have to the venue of any proceeding brought in such location and further irrevocably waive any claims that any such proceeding has been brought in an inconvenient forum.
- 8.10 Confidentiality: The Selected Offeror shall not, without the MUNICIPALITY's prior written consent, release or disclose any non-public information relating to the project to anyone except as necessary to perform its duties hereunder and with prior notice to the MUNICIPALITY.
- 8.11 Certifications: The CONTRACTOR shall, from time to time, make such certifications and statements to the MUNICIPALITY as the MUNICIPALITY shall reasonably request, and in such form as the MUNICIPALITY shall reasonably request, provided that the CONTRACTOR determines that such certifications are true and correct based upon services performed by the CONTRACTOR under the Contract.
- 8.12. All claims, disputes and other matters in question between the MUNICIPALITY and the CONTRACTOR arising out of or relating to the Contract or the breach thereof shall be submitted for resolution to the New York State Supreme Court, in the County in which the MUNICIPALITY'S principal office is located, and shall be adjudicated under the laws of the State of New York, without regard to conflicts of laws principles
- 8.13 Limited Liability: No officer, director, member, employee, or other principal, agent or representative (whether disclosed or undisclosed) of the MUNICIPALITY shall be personally liable to the CONTRACTOR under the Contract, for the MUNICIPALITY's payment obligations or otherwise, the CONTRACTOR agreeing under the Contract to look solely to the assets of the MUNICIPALITY for the satisfaction of any liability of the MUNICIPALITY under the Contract. In no event shall the MUNICIPALITY ever be liable to the CONTRACTOR for costs, attorneys' fees, indirect damages, incidental damages, punitive damages or consequential damages arising out of the Contract or breach thereof.
- 8.14 No Waiver: The MUNICIPALITY's review, approval, acceptance or payment for services under the Contract shall not operate as a waiver of any rights under the Contract and the

CONTRACTOR shall be and remain liable to the MUNICIPALITY for all damages incurred by the MUNICIPALITY as the result of the CONTRACTOR'S failure to perform in conformance with the terms and conditions of the Contract. The rights and remedies of the MUNICIPALITY provided for under the Contract are in addition to any other rights or remedies provided by law. The MUNICIPALITY may assert a right to recover damages by any appropriate means, including but not limited to set-off, suit, withholding, recoupment, or counter-claim either during or after performance of the Contract.

8.15 Severability; Interpretation: If any provision of the Contract shall to any extent be held invalid or unenforceable, the remainder of the Contract shall continue in effect to the extent permitted by law. Paragraph headings in the Contract are include for reference purposes only and in no way, define, limit or describe the scope or intent of any of the provisions of the Contract.

8.16. Municipal Clauses. The terms and conditions at Exhibit A are hereby incorporated herein by reference.

8.17. Special Provisions of MUNICIPALITY. The additional terms and conditions set forth at Exhibit F are incorporated herein by reference

[The remainder of this page is intentionally left blank.]

IN WITNESS WHEREOF, the parties have duly executed this Contract as of the date first above written.

Municipality

By: _____

Name: _____

Title: _____

Contractor

By: _____

Title: _____

Notice Address:

This Agreement consists of the Agreement (___ pages including this execution page), together with the following Exhibits:

- EXHIBIT A STANDARD CLAUSES FOR MUNICIPAL CONTRACTS
- EXHIBIT B SCOPE OF SERVICES
- EXHIBIT C FEES AND EXPENSES
- EXHIBIT D TERM AND COMMENCEMENT DATE
- EXHIBIT E SUBCONTRACTS
- EXHIBIT F MUNICIPALITY SPECIAL CONDITIONS
- EXHIBIT G PREVAILING WAGE SCHEDULES
- EXHIBIT H UTILITY AGREEMENTS AND TARIFFS

EXHIBIT A

STANDARD CLAUSES FOR MUNICIPAL CONTRACTS

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than the Municipality, whether a contractor, licensor, licensee, lessor, lessee or any other party):

1. NON-ASSIGNMENT

CLAUSE. This contract may not be assigned, and no part or portion may be subcontracted, by the Contractor nor may its right, title or interest therein be assigned, transferred, conveyed, sublet or otherwise disposed of without the previous consent, in writing, of the Municipality and any attempts to assign the contract without the Municipality's written consent are null and void.

2. WORKERS'

COMPENSATION BENEFITS. This contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law. If employees will be working on, near or over navigable waters, a U.S. Longshore and Harbor Workers' Compensation Act endorsement must be included.

3. NON-DISCRIMINATION

REQUIREMENTS. To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, marital status, or domestic violence victim status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or

public work, or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, the Contractor agrees that neither it nor its subcontractors or any person acting on behalf of such contractor or subcontractor shall, by reason of race, creed, color, national origin, sex, or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract, as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

4. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN.

In accordance with Section 312 of the Executive Law, if this contract is: (a) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000, whereby the State or other contracting agency as defined in Section 312 is committed to expend, or does expend, funds in return for

labor, services, supplies, equipment, materials, or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (b) a written agreement in excess of \$100,000 whereby a contracting agency is committed to expend, or does expend, funds for the acquisition, construction, demolition, replacement, major repair, or renovation of real property and improvements thereon, or (c) a written agreement in excess of \$100,000 whereby the owner of a State-assisted housing project is committed to expend, or does expend, funds for the acquisition, construction, demolition, replacement, major repair, or renovation of real property and improvements thereon for such project, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:

(a.) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability, or marital status, shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State contracts, and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination, and rates of pay or other forms of compensation.

(b.) At the request of the Municipality, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability, or marital status, and that agency, union, or representative will affirmatively cooperate in the implementation of the

Contractor's obligations herein.

(c.) The Contractor shall state, in all solicitations or advertisements for employees, that in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability, or marital status.

The Contractor shall include the provisions of (a), (b), and (c) above in every subcontract over \$25,000 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon except where such work is for the beneficial use of the Contractor in such a manner that the provisions will be binding upon each subcontractor as to work in connection with the state contract. Section 312 of the Executive Law does not apply to: (i) work, goods or services unrelated to this Agreement; or (ii) employment outside New York State. The Municipality shall consider compliance by the Contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this section. The Municipality shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the Municipality shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor shall comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

5. WAGE AND HOURS PROVISIONS. If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set

forth in prevailing wage and supplement schedules issued by the New York State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the New York State Labor Department in accordance with the Labor Law. Additionally, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with subdivision 3-a of this Section 220 of the Labor Law shall be a condition precedent to payment by the Municipality of any sums due and owing to any person for work done upon the project.

6. NON-COLLUSIVE BIDDING REQUIREMENT. In accordance with General Municipal Law § 103-d, if this contract was awarded based upon the submission of bids, Contractor warrants, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further warrants that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the Municipality a non-collusive bidding certification on Contractor's behalf.

7. INTERNATIONAL BOYCOTT PROHIBITION. In accordance with Section 220-f of the Labor Law, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of this contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership, or corporation has participated, is participating, or shall participate in an international boycott in violation of the Federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the

Municipality within five (5) business days of such conviction, determination or disposition of appeal.

8. SET-OFF RIGHTS. The Municipality shall have rights of set-off. These rights shall include, but not be limited to, the Municipality's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing by the Contractor to the Municipality with regard to this contract, or any other contract with the Municipality, including any contract for a term commencing prior to the term of this contract. This also includes amounts due and owing the Municipality for any other reason including, without limitation, monetary penalties, adjustments, fees, or claims for damages by the Municipality and third parties in connection therewith.

9. RECORD-KEEPING REQUIREMENT. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts or other evidence directly pertinent to performance under this contract (the "Records") for a period of six (6) years following final payment or to the termination of this contract, whichever is later, and any extensions thereto. The Municipality and Attorney General or any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to such Records during the contract term, extensions thereof and said six (6) year period thereafter during normal business hours at an office of the Contractor within the State of New York, or if no such office is available, at a mutually agreeable and reasonable venue within the State, for the purposes of inspection, auditing and copying. "Termination of the contract", as used in this clause 9, shall mean the later of completion of the work of the contract or the end date of the term stated in the contract. The Municipality shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform the Municipality's chief fiscal officer with a copy to

its Records Access Officer, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the Municipality's right to discovery in any pending or future litigation.

10. **LIABILITY.** Contractor shall be responsible for all damage to life and property due to negligent or otherwise tortious acts, errors or omissions of Contractor, in connection with their services under this contract. Further, it is expressly understood that Contractor shall indemnify and save harmless the Municipality, from claims, suits, actions, damages, and costs of every name and description resulting from the negligent performance of the services of Contractor under this contract, and such indemnity shall not be limited by reasons of enumeration of any insurance coverage herein provided.

11. **GOVERNING LAW.** This contract shall be governed by the laws of the State of New York except where the Federal Supremacy clause requires otherwise.

12. **LATE PAYMENT.** Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by General Municipal Law § 106-b.

13. **NO ARBITRATION.** Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized) but must, instead, be heard in a court of competent jurisdiction of the State of New York.

14. **SERVICE OF PROCESS.** In addition to the methods of service allowed by the State Civil Practice Law & Rules, Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the Municipality's receipt of the return thereof by the United States Postal Service as

refused or undeliverable. Contractor must promptly notify the Municipality, in writing, of each and every change of address to which service of process can be made. Service by the Municipality to the last known address shall be sufficient.

15. **OBSERVANCE OF LAWS.** The Contractor agrees to observe all Federal, State and local laws and regulations and to procure all necessary licenses and permits.

16. **DISQUALIFICATION TO CONTRACT WITH PUBLIC ENTITY OR POLITICAL SUBDIVISION.** The Contractor has not been disqualified from selling to or submitting bids to or receiving awards from or entering into any contracts with any public authority or any official of any public authority created by the state or any political subdivision, for goods, work or services.

17. **PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.** The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of New York State Finance Law §165. (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the Contractor to establish to meet with the approval of the State.

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in Section 165 of the New York State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for

exemption will be the responsibility of the Contractor to meet with the approval of the State.

18. **ETHICS.** The Municipality shall have the right to cancel or terminate this Agreement at any time if any work performed under the Agreement is in conflict with the provisions of the New York State Public Officers Law or the Municipality's ethics code.

19. **OSHA 10 HOUR CONSTRUCTION SAFETY AND HEALTH COURSE.** If this is a public work contract covered by Article 8 of the New York State Labor Law, it shall be required that on all public work projects of at least \$250,000.00, all laborers, workers and mechanics working on the site be certified as having successfully completed A MINIMUM OF 10 HOURS OF CONSTRUCTION AND HEALTH SAFETY TRAINING, as approved by the United States Department of Labor's Occupational Safety and Health Administration (OSHA). The Contractor, sub-contractor or other person doing or contracting to do the whole or part of the work contemplated by the contract, shall provide proof of certification for successfully completing the course for each employee prior to performing any work on the project.

20. **CONFLICTING TERMS.** In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Exhibit, the terms of this Exhibit shall control, except that to the extent required for the purpose of obtaining Federal Aid in connection with this contract, any contract provisions required for Federal Aid projects shall supersede any conflicting provisions.

21. **WICKS LAW PROVISIONS.** If this is a public work contract covered by Article 8 of the Labor Law, where preparation of separate specifications is not required, the Contractor shall make no change of subcontractor or agreed-upon amount to be paid to each subcontractor without the approval of the owner in accordance with Section 101(5) of the General Municipal Law.

22. **NO WAIVER OF PROVISIONS.** The Municipality's failure to exercise or delay in exercising any right or remedy under this contract shall not constitute a waiver of such right or remedy or any other right or remedy set forth therein. No waiver by the Municipality of any right or remedy under this contract shall be effective unless made in a writing duly executed by an authorized officer of the Municipality, and such waiver shall be limited to the specific instance so written and shall not constitute a waiver of such right or remedy in the future or of any other right or remedy under this contract.

23. **NO INVESTMENT ACTIVITIES IN IRAN.** A person that is identified on a list created pursuant to paragraph (b) of subdivision three of section 165-a of the State Finance Law as a person engaging in investment activities in Iran as described in such section, shall not be deemed a responsible Contractor to the extent provided pursuant to section 103 of the General Municipal Law. By signing this contract, the Contractor and each person signing on behalf of the Contractor certifies, under penalty of perjury, that to the best of its knowledge and belief such Contractor is not on the list created pursuant to paragraph (b) of subdivision 3 of section 165-a of the State Finance Law.

24. **ENTIRE AGREEMENT.** This contract, together with this Exhibit, constitutes the entire understanding between the parties and there are no other oral or extrinsic understandings of any kind between the parties. This contract may not be changed or modified in any manner except by a subsequent writing, duly executed by the parties hereto.

*EXHIBIT B-1 TO CONTRACT
SCOPE OF SERVICES*

*[REQUEST FOR PROPOSALS
Initial Maintenance and Energy Efficiency Conversion
And Follow-up Warranty and Maintenance Services
for Municipal Street Lighting System]*

[ATTACH RFP Tech Specs including Summary and SECTIONS 2 AND 3]

EXHIBIT B-2 TO CONTRACT
CONTRACTOR'S TECHNICAL PROPOSAL

[Attach Proposal]

Contractor's Principal Personnel:

1. CONTRACTOR'S Project Manager:

Name:

Address:

Email:

Phone:

Fax:

2. CONTRACTOR'S QUALIFIED PERSONNEL MEETING APPLICABLE UTILITY STANDARDS REFERRED TO IN THE UTILITY AGREEMENTS AND TARIFFS:

3. CONTRACTOR's 24 Hour Call Center:

Phone:

Contact:

EXHIBIT C TO CONTRACT

PRICING SCHEDULE AND TERMS OF
COMPENSATION

- A. Pre-Conversion Maintenance Services: Fee Schedule: Attached hereto at Exhibit C-1. Based on estimate of _____ Participant lights, not to Exceed \$_____ during the term of this Contract.

If Pre-Conversion Monthly Retainer Alternate is elected by MUNICIPALITY; See section 3.2 and pricing section D1 and as further defined in Exhibit F; Pre-Conversion Maintenance Services Monthly Retainer in the amount of \$_____ per month, with actual approved time and materials charges to be billed and credited against Retainer. Such retainer will be deducted from the approved charges for actual work performed during the month. Each month shall be treated as separate and retainers will not be considered cumulative for the purpose of adjustment of any approved charges. In any given month the maximum credit of the retainer against issued time and materials invoices shall be limited to the retainer paid for that month and invoices issued for work performed during that month. Retainer Obligations: Payment of Monthly Retainer is subject to CONTRACTOR's obligation to meet the following additional response times for repairs:

- B. Installation/Conversion Services: Fee Schedule Attached hereto at Exhibit C-1. Based on estimate of _____ Participant_ lights, not to exceed \$_____ during the term of this Contract.
- C. Post-Conversion Maintenance Services: Fee Schedule Attached hereto at Exhibit C-1. Based on estimate of _____ Participant lights, not to Exceed \$_____ during the term of this Contract. All fixture and photocell or controls repairs shall be subject to the manufacturers' ten-year warranty. Failed fixtures for any reason or failed photocells or control devices shall be replaced with a warranty supplied replacement part. Such parts will be supplied by the Town.
- D. Amounts billed hourly are subject to maximum not-to-exceed amounts set forth herein as such amounts may be amended by written change order authorized by resolution of the governing board.
- E. Additional Services: Any approved Additional Services are to be billed at the Hourly Rates specified on C-1. All Additional Services require the advance written approval of the Designated Officer, subject to the maximum approved amount for the services specified. Services performed without such authorization are at the Contractor's risk and under no circumstances shall the Municipality be obligated for payment.
- F. REQUIRED PRICING SHEETS: [ATTACH PRICING SHEETS at EXHIBIT C-1]

G. SPECIAL ADDITIONAL PRICING: [INCLUDE ALTERNATE PRICING SHEETS AT EXHIBIT C-2 IF APPLICABLE]

EXHIBIT D TO CONTRACT

TERM AND COMMENCEMENT DATE

The initial term shall be [3] years commencing with the Commencement Date.

The Commencement Date shall be the date set forth in a notice to proceed issued by the MUNICIPALITY.

The Contract shall be subject to renewal at the sole option of the MUNICIPALITY, by written notice to the CONTACTOR sent not less than sixty (60) days prior to the expiration of the initial term, for an additional period of 2 years on the same terms and conditions except as to the renewal period.

EXHIBIT E TO CONTRACT

SUBCONTRACTORS

Contractor is not authorized to subcontract with any other person or entity for the purposes described in the Scope of Services without prior written authorization from the MUNICIPALITY. In the event that Contractor is authorized to subcontract for services, all subcontractors shall be bound by the provisions of this Agreement.

EXHIBIT F TO CONTRACT
MUNICIPALITY SPECIAL CONDITIONS

(Town of Red Hook)

a. The Contractor represents and covenants that (i) it is experienced in performing work of the types contemplated by the Scope of Services; (ii) at all times during the term of this Contract the persons assigned to perform services have and will have the experience, knowledge, and licenses necessary to perform the services described herein; (iii) the Contractor is fully qualified to perform the Scope of Services, with capability to perform the Scope of Services and timely deliver a work product as required by this agreement, (iv) the Contractor will procure and maintain all licenses and permits necessary to perform the work described in this Agreement; (v) the Contractor will comply with the provisions of the Labor Law and all State laws and Federal and local statutes, ordinances and regulations that are applicable to the performance of this Agreement; and (vi) the Contractor will use that degree of care and skill ordinarily exercised under similar circumstances by persons practicing in the same or similar locality.

b. Unless otherwise authorized in writing in advance by the MUNICIPALITY, the persons primarily responsible for performing work under this Agreement, including any subcontractors, shall be as set forth at **Exhibit B and Exhibit E**. Any subcontractors shall be bound by the provisions of this Agreement, such subcontractors and the form of any subcontract shall be subject to prior review and approval by MUNICIPALITY in its discretion, and any such subcontract shall be deemed to include the Standard Clauses attached hereto as **Exhibit A**

c. The Contractor represents and warrants that (i) the Contractor has all requisite power and authority to execute, deliver and perform this Agreement; (ii) this Agreement has been duly authorized by all necessary action on the part of the Contractor and has been duly executed and delivered by the Contractor and, assuming due execution and delivery by the MUNICIPALITY, constitutes a legal, valid, binding and enforceable obligation of the Contractor; and (iii) the execution and delivery of this Agreement, and compliance with the provisions hereof, do not and will not conflict with or constitute a violation of or default under the organization documents, or any statute, indenture, mortgage, deed of trust or other agreement or instrument to which the Contractor is bound, or to the knowledge of the Contractor, any order, rule or regulation of any court or governmental agency or body having jurisdiction over the Contractor or any of its activities or properties.

d. The Contractor represents and warrants that it has not entered into any agreement for services with any other party with respect to any activities within or relating to the Scope of Services under this Agreement, other than such subcontracts as are specifically set forth at **Exhibit E**. The Contractor shall accept no other compensation, directly or indirectly, from any party, other than the MUNICIPALITY, for any services connected with the work described in the Scope of Services. The Contractor represents that it has read the Ethics and Disclosure Law of the MUNICIPALITY and will comply with its provisions.

e. The Contractor represents and warrants that it has not employed or retained any company or person, other than a bona fide employee working for the Contractor, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift or any other consideration, contingent on or resulting from the award or making of this Agreement. The Contractor further represents and warrants that neither it nor any of its directors, officers, members, partners, associates or employees, has any interest, nor shall they acquire any interest, directly or indirectly, which would or may conflict in any manner or degree with the performance or rendering of the services. In the event of breach of this provision the MUNICIPALITY shall have the option to annul this Agreement without liability, or deduct from the Agreement consideration, or otherwise recover, the full amount of any such fee, commission, percentage, brokerage fee, gift or other consideration. Such remedies shall be in addition to and not in limitation of any other remedies available at law or in equity.

Participant's Primary Point of Contact:

Name: _____

Address: _____

Phone: _____

Emergency Contact Information: _____

Other Authorized Designee for Emergency Purposes:

Name: _____

Address: _____

Phone: _____

Emergency Contact Information: _____

EXHIBIT G TO CONTRACT
PREVAILING WAGE SCHEDULE

Please see Attachment labeled, "Exhibit G – Prevailing Wage Schedule"

EXHIBIT H TO CONTRACT

UTILITY PURCHASE CONTRACT, OPERATING AGREEMENT AND TARIFF

APPENDIX E TO RFP
SAMPLE FORM OF UTILITY AGREEMENTS FOR PARTICIPANTS

Please see attachment labeled, "Appendix E – Sample Form of Utility Purchase Contract and Operating Contract and Tariff"